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U. S.

CHAMIZAL ARBITRATION

APPENDIX

TO THE

CASE OF THE UNITED STATES

BEFORE THE

INTERNATIONAL BOUNDARY COMMISSION
UNITED STATES—MEXICO

HON. EUGENE LAFLEUR, PRESIDING

UNDER THE

PROVISIONS OF THE CONVENTION BETWEEN THE UNITED
STATES OF AMERICA AND THE UNITED STATES
OF MEXICO, CONCLUDED JUNE 24, 1910

VOLUME II

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1911

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OTHER DIPLOMATIC CORRESPONDENCE, CONSTRUING THE BOUNDARY TREATIES BETWEEN THE UNITED STATES AND MEXICO, 1849-1907.

PERIOD 1849-1875.

Mr. Clifford to Señor Cuevas.

LEGATION OF THE UNITED STATES,
CITY OF MEXICO, *Feb'y. 10, 1849.*^a

The Undersigned, etc., etc., has the honor to inform His Exy., etc., etc., that the Prest. U. S. considering the near approach of the period when the Commissioners of the U. S. of Mexico ought to meet at San Diego for the purpose of running and marking the boundary line between the two Republics, has instructed the U. to call His Exy's attention to the subject, with a view to promote an amicable understanding in regard to certain matters necessarily connected with the accomplishment of that object as stipulated in the fifth art. of the treaty of peace concluded at Guadalupe on the 2d Feb., 1848. That art. among other things, provides that "in order to designate the boundary line with due precision upon authoritative maps & to establish upon the ground landmarks which shall show the limits of both Republics as described in the present (the fifth) art., the two Govt's shall each appoint a Commissioner and a Surveyor who, before the expiration of one year from the date of the exchange of ratifications, shall meet at the port of San Diego and proceed to run and mark the said boundary in its whole course to the mouth of the Rio Bravo del Norte."

In execution of the above mentioned Art. of the treaty, the Prest. U. S., early in Dec. last, nominated to the Senate Ambrose H. Sevier of Arkansas as Commr., and Andrew B. Gray of Texas as Surveyor, on the part of the U. S., to run and mark the boundary line in pursuance of the fifth art. of the treaty of peace. It is, however, proper to remark that private intelligence of a recent date announces that Mr. Sevier has since

^a [This note and Señor Cuevas' response of same date were transmitted to the Department of State in Mr. Clifford's despatch No. 37 of Feb. 13, 1849. A certified copy of the despatch which is lengthy and almost entirely devoted to irrelevant matters is held at the disposition of the Commission.—Agent's note.]

deceased. This melancholy event, though deeply to be regretted will not, it is believed, retard for much time the organizing of the Commission on the part of the U. S. No doubt is entertained that another nomination has already been made, and, in all probability, the Commr. and Surveyor may now be in readiness to proceed to the place designated in the treaty for the meeting of the Commissioners. At the date of the last official advices of the Under-signed from Washn., it was the intention of the Prest. U. S., as soon as the nomination of Commr. and Surveyor should be confirmed by the Senate, to designate suitable officers of the Topographical Corps of Engineers of the U. S. to accompany the Commr. and Surveyor and to take charge of the Scientific dept. of the work. While it is not supposed that either the legality or expediency of the course last indicated will be questioned, and anticipating that the Mexican Gov't. will send scientific engineers with their own Commr. and Surveyor, it is yet deemed proper by the U. to mention the fact to His Excy., in order to guard against the possibility of any misunderstanding upon a matter so interesting to both Countries as that of running and marking the boundary line between them. With the same view and in the same spirit, the U. embraces the occasion to repeat what he had the honor, a few days since, to state verbally to His Excy., that it has been determined by the Prest. U. S., after full consideration in Cabinet Council, that an escort, not exceeding two hundred & fifty men, will be necessary, on the part of the U. S., to protect the Commr. to run the line, and his party, against the attacks of hostile Indians. Not doubting that the Mexican Govt. will deem it expedient to send a similar escort, not exceeding the number specified, to protect their Commr. and his party, the U. indulges the hope that His Excy. will, without hesitation, signify his acquiescence also in the last mentioned intention of the Prest. U. S. It has also been made the duty of the U. to assure His Excy. that no time will be lost by his Govt. in making preparations for the meeting of the Commr. at San Diego on or before the 30th of May next.

N. CLIFFORD.

His Excy.

The MINISTER OF F. RELATIONS.

Etc., Etc., Etc.



Señor Cuevas to Mr. Clifford.

A S. E. el Sr. CLIFFORD, etc., etc.

PALACIO NACIONAL,

MEXICO, Feb°. 10, de 1849

El infrascrito etc., etc. tiene la honra de acusar recibo de la nota que S. E. el Sr. Clifford etc., etc. se ha servido dirigirle hoy, conforme á las instrucciones de su Gobierno, á fin de que en todos los puntos que tienen relacion con el señalamiento de la linea divisoria entre Mexico y los Estados Unidos conforme á lo estipulado en el art°. 5°. del Tratado de Guadalupe, haya un completo acuerdo por parte de los Gobiernos de ambas Republicas.

El infrascrito manifiesta á S. E. etc. que el Gobierno de Mexico no tiene menos empeño que el de los E. U. en el pronto cumplimiento de esa estipulacion, y que desea y está persuadido de que no habrá motivo alguno de mala inteligencia en todo lo relativo á trazar la linea divisoria establecida en el Tratado.

El E. Sr. Presidente ha sabido con satisfacción por la nota de S. E. el Sr. C. que el Gobierno de los E. U. no perderá tiempo en hacer todos los preparativos para que su Comisario y agrimensor esten en S^a. Diego el 30 de Mayo procsimo. El E. S. Presidente ha nombrado ya Comisario para la demarcacion de limites previa la aprobacion del Senado, al Sr. General D. Pedro Garcia Conde, que marchará con la debida prontitud á desempeñar su encargo. Para agrimensor estuvo nombrado el Sr. Coronel Robles, pero habiendo anunciado esta Comisión por el estado de su salud, muy en breve, se nombrará la persona que debe reemplazarlo. Al hablar de esta Comision el infrascrito no puede menos de espresar que el fallecimiento del Sr. Sevier ha sido en extremo sensible para el Gobierno de Mexico, que veia en el á uno de los Ciudadanos de los E. U. que con mas ardor procuraron el establecimiento de la paz.

El infrascrito debe manifestar al Sr. C. á nombra del Gobierno de Mexico, que la intencion que anuncia de S. E. el Presidente de los E. U. de enviar algunos ingenieros que acompañen á la Comision Americana en la demarcacion de la linea divisoria, fiandoles la parte cientifica de este trabajo, es enteramente conforme con la intencion del E. S. Presidente de esta Republica, que igualmente ha dispuesto que cuatro ingenieros acompañen al Sr. Garcia Conde.

En cuanto á la escolta que debe acompañar á los Comisarios para protegerlos de los ataques de los indios, el infrascrito debe repetir al Sr. C. lo que ha tenido el honor de esponerle en lo verbal,

que el Gobierno de Mexico está enteramente conforme en que por cada parte haya una fuerza de doscientos cincuenta hombres, como ha resuelto S. E. el Presidente de los E. U.

Al dirigir al S^r. C. esta nota que probará sin duda á S. E. que en la demarcacion de limites habrá el completo acuerdo que se desea en las medidas que dicten ambos Gobiernos, aprovecha etc., etc.,

L. G. CUEVAS

[Translation.]

NATIONAL PALACE, MEXICO, *February 10, 1849.*

To His Excellency Mr. CLIFFORD, etc., etc., etc.,

The undersigned, etc., etc., etc. has the honor to acknowledge the receipt of the note which His Excellency Mr. Clifford, etc., etc., etc., was pleased to send to him to-day, in accordance with instructions from his Government, in order that, in all points relating to the tracing of the boundary line between Mexico and the United States in accordance with the stipulation of Article V of the Treaty of Guadalupe, there shall be a perfect agreement on the part of the governments of both republics.

The undersigned will state to His Excellency that the Mexican Government is no less anxious than that of the United States that this stipulation should be promptly carried out, and that it desires and is convinced that there will be no cause whatever of misunderstanding with respect to the demarcation of the boundary line established in the Treaty.

His Excellency the President has learned with satisfaction from a note of His Excellency Mr. C. that the Government of the United States will lose no time in making all the preparations that the Commissioner and surveyor may be at 30 next. His Excellency the President has his commissioner for the demarcation of boundaries under the approval of the Senate, General Pedro Garcia y Arce, proceed with due promptness to the discharge of his duties. General Robles was appointed as surveyor, but having, owing to his health, his successor will be appointed in a few days. In speaking of this commission the undersigned stating that the death of Mr. Sevier was regretted by the Mexican Government, who saw in him a valuable citizen of the United States in endeavoring to settle the boundary line. The undersigned must state to Mr. C., on behalf of the Mexican Government, his intention, as announced by him, on the part

of His Excellency the President of the United States to send some engineers to accompany the American Commission in marking the boundary line, entrusting to them the scientific part of this work, is entirely in accord with the intentions of His Excellency the President of this Republic, who has likewise arranged to have four engineers accompany Mr. Garcia Conde.

As regards the escort which is to accompany the commissioners in order to protect them against the attacks of the Indians, the undersigned must repeat to Mr. C. what he had the honor to state to him orally, viz, that the Mexican Government fully agrees that there should be a force of two hundred and fifty men on each side, as decided by His Excellency the President of the United States.

While addressing to Mr. C. this note, which will without doubt prove to His Excellency that in the marking of the boundaries there will be the perfect accord which is desired in the measures taken by the two governments, he avails himself etc. etc., etc.

L. G. CUEVAS.

Mr. Marcy to Mr. Gadsden.

No. 3.

DEPARTMENT OF STATE,

WASHINGTON, *15th July, 1853.*^a

To JAMES GADSDEN, Esquire,

etc. etc. etc.

SIR:—

* * * * *

I will now direct your attention to a very serious difficulty which has arisen in relation to the boundary line between the United States and Mexico. The part of the line, in regard to which the dispute has arisen, is that along the southern boundary of New Mexico. The first question to be settled is, whether this line has been actually traced by the boundary commission according to the provisions of the Treaty of Guadalupe Hidalgo of the 2nd of February, '48. The mode of running and marking the line between the United States and Mexico is clearly prescribed by the 5th. Article of that Treaty. That article provides a commission for that purpose. Each government is required "to appoint a commissioner and a surveyor, who shall meet at the port of San Diego, and proceed to run and mark the said boundary in its whole course to the mouth of the Rio Bravo del Norte. They shall keep Journals and

^a [Irrelevant portions of this instruction have been omitted. A certified copy of the entire instruction is held at the disposal of the commission.—Agent's note.]

make out plans of their operations; and the result agreed upon by them shall be deemed a part of this treaty."

The language I have quoted clearly requires that, not only the commissioners appointed by the two governments, but the surveyors also, must concur in the result before the line run and marked will become a part of the Treaty—that is—the fixed boundary between the two countries. They *all* must agree in the result. The Commissioner and Surveyor appointed by each government are its agents, and are to act in this business, in conjunction with the Commissioner and Surveyor of the other, and their determination all agreeing, is necessary to establish the boundary line, and nothing less can do it.—This was not a board which could decide anything by a majority of votes. Two could conclude nothing when three only were present, nor could three concurring in opinion, do a valid act in the absence or without the concurrence of the fourth. This was evidently the view of the matter taken not only by the American Commissioner, but by the Mexican Commissioner and Surveyor, at the time this part of the line was under consideration. Hence the great anxiety to have the American Surveyor concur in their opinion in regard to the initial point. The fixing of that point has never been concurred in by the American Surveyor. Mr. Gray who held that position was not present when the initial point was attempted to be fixed, and as soon as he was informed of what was proposed with respect to it, he declared his dissent, and clearly exposed the error. Lieutenant Whipple who, until the arrival of Mr. Gray, acted as Surveyor under a void appointment from the American Commissioner, also though it was a mistake to fix that point at $32^{\circ} 22'$, but his concurrence, had it been given in the most formal manner, could be of no avail for he was not a Surveyor. Mr. Bartlett, the American Commissioner had no authority, nor the colour of an authority, to appoint a surveyor, and this was well understood at the time by the Mexican Commissioner and Surveyor. As to the mode of appointing these agents to trace and mark the boundary line the Treaty is clear and explicit. "The two governments shall each appoint a commissioner and a surveyor" etc. The government of the United States had nothing to do with designating Lieutenant Whipple. Mr. Gray the first appointed surveyor on the part of the United States was the incumbent of that office when Lieutenant Whipple was designated to act as Surveyor—but if it had been vacant Mr. Bartlett had no power to fill it. Mr. Gray was superseded by Colonel Graham. No sooner did

Colonel Graham look into this matter than he discovered the error in regarding $32^{\circ} 22'$ as the true initial point on the Rio Bravo del Norte, and not only refused to give his sanction to it, but showed conclusively that it would be a palpable mistake to fix it there. He was subsequently removed and Major Emory put in his place as American Surveyor, but Major Emory never concurred in fixing the initial point, at the place selected by the two Commissioners and the Mexican Surveyor. He afterwards merely certified the fact that the Commissioners had fixed the initial point at $32^{\circ} 22'$. An attempt has been made, and may be repeated, to pervert this certificate into a distinctive act of approval, but it was not so regarded by Major Emory nor can it justly be so regarded by anyone.

I have gone into this detail of the proceedings in regard to the initial point to show that it has not yet been fixed, according to the requirements of the Treaty, and notwithstanding all that has been done in that matter, the United States can fairly consider the Southern line along the Territory of New Mexico yet unestablished. I hope you will find the government of Mexico disposed to acquiesce in this view of the subject.

I apprehend that Mexico may be the more tenacious in holding on to the erroneous line in consequence of the opinions and action of the late Secretaries of the Interior and of the State departments on this subject. They both appear to have approved of the course of our Commissioner or at least to have been disposed to acquiesce in his decision and to regard it as obligatory upon the United States.

It is quite natural that Mexico should attach more importance to the acts and opinions of these members of the late administration than can be properly ascribed to them in a matter of this kind. By recurring to the treaty, it will be perceived that the Executive department of the respective governments had no control over the conduct of the Commissioner and Surveyor appointed by them, nor was there reserved to either the duty or the right to approve of their proceedings, and no approval or sanction by either or both is required to give them validity. The boundary commission was placed beyond the power of either Mexico or the United States, while acting in good faith in the matter committed to them by the Treaty. Their decisions, when made conformably thereto, were valid and effective to bind the two governments without the approval of the executive department of either, and, when not in conformity to the Treaty, such approval could give them

no validity. Whatever may have been the opinion of the Secretary of the Interior or any other Secretary, or even the President, upon the acts of the American Commissioner, those acts are not now the less open to question as to their binding effect on the United States. Such approval no more corrects an error, if error there be, than a like Executive approval would correct an error committed by any judicial tribunal of the United States. If indeed there had been an explicit approval by the late executive officers of the decision of the American Commissioner on the initial point, inasmuch as that decision was not made by competent authority and was not a matter at all depending upon executive sanction, the President is in no way released from his duty of seeing that the boundary line has been run and marked by those who were selected for that purpose, and he cannot without disregarding that duty, acquiesce in a line which has not been thus established.

However desirable it may be to Mexico to have the line she now claims recognized I think she will not contend that a line which has not in fact been run and marked by the Commissioners and Surveyors of each Government is to be regarded as established according to the requirements of the treaty. You will therefore urge upon Mexico as the view of this government that the line along the Southern boundary has not been established in the way required by the treaty and obtain her consent, if it can be done, to have it thus run and marked.

That the line claimed by Mexico has not been run and marked in the only manner it could have been run and marked, according to the Treaty, is very clear, and it is equally clear that in tracing it the provisions of the treaty have been strangely disregarded. Instead of giving the whole of New Mexico to the United States as was the obvious intention of the negotiators of the Treaty, and as is clearly expressed by the language they used, a large district of that Territory is cut off by the Commissioners' line. Their line is thirty-four miles too far north, and, by regarding it as the true line, a district of country of that width along the whole southern extent of New Mexico would be lost to the United States. If the boundary commission had established, in the manner prescribed by the Treaty, a line so variant from the one intended by the parties it can hardly be supposed that the party which has thus obtained an accidental advantage would insist upon holding on to it; but the question is not presented in that aspect, for the line in question, as I have shown, has not been run and marked in the mode required by the Treaty.

It will appear by an examination of the 5th Article that the true initial point is only a few miles (probably about eight) north of the Town of El Paso—that the error (hardly excusable) has occurred by disregarding the Map referred to in, and made a part of the treaty, and substituting for it the figures on its margin—placed there to indicate the parallels of latitude.

I do not propose in this communication to reproduce the arguments which have been put forth by the American Surveyors and in the Senate of the United States, showing, as I think they do, conclusively, the error of the commissioners, nor shall I on the other hand discuss those which have been adduced to sustain the line claimed by Mexico. You will be furnished with them; and should it become necessary for you to present to Mexico, the views of your government on this point, you will have ample means in your possession to sustain them. The Treaty furnishes a basis of an argument—indeed it is in itself a irrefragable argument for the line claimed by the United States. Mexico ought to be willing, as the United States are, to have the line run and marked in the mode designated in the treaty and to acquiesce in the result. Until it is thus run and marked she ought not to expect acquiescence on the part of this Government, in that which she now claims upon no better ground than a mistake, and which if allowed would sever from New Mexico a large district of country which was a part of it when the treaty of Peace and Limits was made, and has ever belonged to it.

While this dispute as to the southern boundary of New Mexico remains unadjusted it is expected that each party will abstain from taking possession of the district in question or doing any act which indicates an exclusive appropriation thereof to itself. The late Governor of New Mexico it seems entertained an intention of taking actual possession of it and so announced his purpose in a proclamation; but at the same time he declared that he was acting in the matter without instructions from his government. His intention was never executed, his purpose was disapproved, and Mexico has been distinctly apprised that the United States will abstain from taking possession of the disputed territory in the belief that the difficulty will be settled by negotiation, and this government expects that Mexico will on her part take the same course. Should she however contrary to our reasonable expectation have acted otherwise you will urge upon her the propriety and reasonableness of the proposition of this government, and insist upon her acting in conformity to it. Our propo-

sition is that the district in question should be left precisely in the situation it was when the dispute first arose until all efforts to adjust it shall have been exhausted. I cannot doubt that Mexico will conform to this suggestion.

* . * * * *

I am, Sir, respectfully, Your obedient servant,

W. L. MARCY.

Mr. Gadsden to Mr. Marcy.

LEGATION AT MEXICO,
WASHINGTON, D. C., 20 March 1854.

To the Hon. WM. L. MARCY.

SIR: I herewith enclose copies of the substance of Six (6) conferences ^a (received by Mail from Mexico) held with the Mexican Commission during our negotiations for the Adjustment of the issues between the Two Governments; and which resulted in the Treaty subsequently signed and now under consideration in the Senate.

As these documents are important, as explanatory of the intent; and just interpretation of the provisions of the Treaty; should issues in the execution arise; I had them prepared for deposit in the State Department. I would respectfully suggest that they accompany the correspondence; and other documents called for by the Senate.

With Mr. Wards' letter would there not, be a propriety to annex the communication I had the honor to address the Department of State: dated Washington, 30th Jan., 1854.

Respectfully,

JAMES GADSDEN.

Notes of diplomatic conferences for the adjustment of the various issues between U. States and Mexico.—December, 1853.

Dec. 22nd. Commissioners met at the Office of Foreign Relations to continue the negotiations of the 10th and 16th. The discussion still hung upon the line proposed by Genl. Gadsden, who since the meeting of 16th had offered by note to Mr. Bonilla to purchase *Lower California*. Mr. Bonilla in reply denied his Powers to alienate this portion of Mexican Territory; that his instructions obliged him to declare, that only in view of the necessity, which

^a [Only two of the protocols of Conferences referred to are printed,—the others being deemed irrelevant. Certified copies of all the protocols are held at the disposal of the Commission.—Agent's note.]

the U. States had of land for the proposed road^a did Mexico agree (not to defeat a project so beneficial to the U. States and the world generally, and to preserve peace and the good understanding which existed) to yield to the propositions of the U. States, so far as was compatible with her interests, in view of which, she offered the following line.

That remaining, which was already established by 5th Article of the Treaty of Guadalupe between the two Californias, the limits between the two Republics, should continue from the point at which said line cuts the River Colorado, along the middle of deepest channel of said river to a point distant two marine leagues from the most Northern part of the Gulf of California; thence a right line to the intersection of 31° Latitude North with 111° Longitude West of Greenwich; whence another right line until it intersects the Rio Grande or Bravo del Norte in Latitude $31^{\circ} 47' 30''$ whence said limits shall continue down the middle of deepest channel of said river to where it empties into the Gulf of Mexico, in accordance with what is provided in said Article 5th of the Treaty of Guadalupe, Hidalgo. Mr. Bonilla also added that he made this proposition with the full understanding, that the town of *Paso del Norte* in the Department of Chihuahua, and the entire *Gulf of California*, should continue to be, as they now are under the sovereignty, jurisdiction and dominion of the Mexican Republic, which on his part was a sine qua non for the celebration of a Treaty. Each party prolonged the discussion, sustaining their own views, and not coming to any decision, it was determined to defer the question for the meeting fixed for to-morrow.

JAMES GADSDEN.

JOSE SALAZAR ILARREQUI.

MANUEL DIEZ DE BONILLA.

T. MARIANO MONTERDE.

Dec. 23rd. By agreement of yesterday the Commissioners on either side met in Conference to prosecute their negotiations. The discussion was resumed upon that portion of Genl. Gadsden's Project relative to the dividing line between Mexico and the U. States. Mr. Bonilla being asked by Genl. Gadsden, the decision of Mexico on the proposal made by him, replied, that what had been stated thereupon, in the previous Conference, was final and

^a [The original manuscript which is written in ink has a marginal note in pencil, referring to this point and reading "and for perfecting the Boundary line between the Two Republics."—Agent's note.]

definite; the more so as it was considered, by the proposed line the aims of the U. States were satisfied. The Envoy of the U. States observed, that such being their decision, he accepted the line, on condition that the Lake Guzman remained within the Territory to be ceded to U. States, by making said line run a proper distance to South of the Lake which in itself might not be of importance; but should the Boundary line happen to traverse it there would not be left room for a road; as it was supposed that the same would of necessity turn to the South of said Lake, otherwise the objects of his Government, which were to reach her more Western Frontier would not be carried out. This having been conceded on the part of Mexico, it was thus settled what was to be the Boundary line between the two Countries. Genl. Gadsden then inquired, if Mexico would oppose it, if at any future period it should be considered advantageous to the two Countries to construct a branch of Railroad to El Paso. Mr. Bonilla replied that if the conditions proved acceptable and the sovereignty and exclusive jurisdiction of the country pertaining to Mexico, was not thereby affected, he could discover no objection; that this could not now be a matter of stipulation, but be left for the time of its execution. Mr. Bonilla remarked, that it was understood, that all the stipulations of the treaty of Guadalupe, in favor of Persons as well as of property civil and ecclesiastical were to extend in like manner to the Territory proposed to be ceded; but that he furthermore requested, that all who now inhabit said Territory should be for ten years exempt from taxation. The American Envoy replied that he could not concede this, as contrary to the laws of the U. States and the rights of each individual State; but that all the stipulations of Treaty of Guadalupe should be extended to Citizens and property. Mr. Bonilla proposed to consider the amount to be received by Mexico as compensation for the cession of Territory. Genl. Gadsden stated that he had been instructed by his Government to offer one single amount for all the items of negotiation; wherefore he suggested, that it were better to agree upon the various points at issue and thereafter return to the subject of compensation.

On the mode of establishing the line, where it might not coincide with that of 5th Article of the Treaty of Guadalupe. The Envoy of U. States thought that by the appointment of three Functionaries on either side, those difficulties, which had occurred in the establishment of the line under the Treaty of Guadalupe would be avoided. Mr. Bonilla explained, that he considered the

creation of three Functionaries of equal faculties and rank would rather produce results contrary to what the American Minister supposed; whereas the existence of a single Commissioner on either side ensured harmony and promptness in the work. The American Envoy suggested that the Commissioners be allowed to name an umpire or third person in the event of any difference between them; this point was given up, as the Mexican Commission observed that no difference could exist in a mere question of Mathematic Science. So it was agreed to nominate one Commissioner on either side for the establishment of the Boundary line, and moreover that the line thus established by consent of Commissioners should be considered a part of the Treaty, without necessity of further approval; and that said Commissioners should meet at Paso del Norte three months after the exchange of ratifications of the Treaty to enter upon their duties.

Mr. Bonilla observed, during the discussion which next arose upon the 2nd Article of the Projet of Treaty offered by Genl. Gadsden; that Mexico consented to the abolition and relinquishment of the 11th Article of the Treaty of Guadalupe for the sake of harmony and peace which it was asserted over and again had been threatened by the interpretations given to said Article by either side, provided she were amply compensated for the losses which her Government and Citizens had suffered in the past, and for the responsibilities and obligations of which the U. States in the future would be relieved. The Envoy of the U. States explained in reply that his Government had as far as was practicable complied with the stipulations of said Article; that she had never understood nor conceded that this Article (11th) admitted of that interpretation which Mexico sought to give it; and that never in any case could he recognize the obligation of an indemnity for losses alleged; and still more it was impossible to distinguish between losses arising from incursions of Indians from U. States Territory and those caused by Barbarians within the limits of Mexico. A prolonged discussion ensuing upon the same topic, Genl. Gadsden remarked that they were merely reproducing arguments that had been canvassed previously; that thus they could arrive at no result and finally proposed as a compromise of the difficulty, the entire relinquishment of the Article by Mexico which would be considered in the amount he was authorized to pay for the arrangement of the various issues between Mexico and U. States. Mr. Bonilla observed that it was alike to treat of these issues separately as conjointly; that he wished to state that Mr. Letcher in

1852 had offered five millions dollars, and Mr. Conkling eight millions in June of the present year for the abolition of 11th Article; offers which Mexico had refused as insufficient, facts he desired to be borne in mind. The American Envoy stated that he could find no evidence on record of such an offer having been made by Judge Conkling, tho' not in the least casting any doubt upon Señor Bonilla's assertion. The Conference having continued some hours it was agreed to renew it on to-morrow.

JAMES GADSDEN.

JOSE SALAZAR ILARREQUI.

MANUEL DIEZ DE BONILLA.

T. MARIANO MONTERDE.

Señor Romero to Mr. Seward.

LEGACION MEXICANA EN LOS
ESTADOS UNIDOS DE AMÉRICA,
WASHINGTON, 9 de Enero de 1867.

Muy Señor mio:

Obsequiando el encargo que me hizo, en nuestra conversacion de hoy, tengo la honra de remitirle copia de la comunicacion número 538 que el Señor Lerdo de Fejada me dirigió el 5 del próximo pasado sobre cambios del cauce del Rio Grande en los límites entre Méjico y los Estados Unidos, é igualmente del anexo que la acompaña.

Quedo de V. Señor Secretario, muy atento y seguro servidor.

M. ROMERO.

Hon. WILLIAM H. SEWARD,

etc., etc., etc.

[Inclosure 1.]

Copia.

Ministerio de Relaciones Exteriores y Gobernacion.—Departamento de Relaciones—Seccion de América.—Número 538. Cambios del cauce del Rio Grande en la línea divisoria entre Méjico y los Estados Unidos.

CHIHUAHUA, Diciembre 5 de 1866.

Envio á V. copia anexa, de una comunicacion que me dirigió el C. Gobernador del Estado de Chihuahua en 31 de Octubre último, transcribiendo otra del Gefe Político del Distrito de Bravos, fecha 17 del mismo mes, sobre las dificultades que está ocurriendo por la variacion del Cauce del Rio Grande, cerca de la Villa del Paso del Norte.

Por la importancia de este asunto, el C°. Presidente de la República encarga á V. que lo esponga del modo conveniente á ese Gobierno, atendiendo á las consideraciones espuestas por el Gefe Político del Distrito de Bravos, á las constancias que debe haber en el archivo de esa Legacion, respecto del modo con que procedieron las comisiones de límites, y á lo estipulado en el artículo 5 del Tratado de 2 de Febrero de 1848, sobre la permanencia de la línea divisoria entre las dos Repúblicas, que no se alteró por el artículo 1 del Tratado posterior de 30 de Diciembre de 1853, en lo que se refiere al presente caso.

Si bien pudieran no deber considerarse los cambios insensibles causados por aluvion en las orillas del Rio Grande, no es posible dejar de considerar los cambios visibles é importantes causados por fuerza del Rio. Parece fundado en derecho y en las estipulaciones del Tratado, que respecto de las porciones notables de terreno que lleguen á quedar en opuesta orilla por la fuerza del Rio, subsistan el dominio eminente de la nacion á que pertenecían, y los derechos privados que hubiera sobre ellas.”

“Si ese Gobierno conviene en estos principios, y conforme á ellos está dispuesto á dar instrucciones á los funcionarios de los Estados Unidos en los Distritos de la línea divisoria, parece que no sería necesario promover otra cosa por ahora, pero en caso contrario, se servirá V. comunicarme cuales sean los principios de ese Gobierno en el particular, para que pueda promoverse lo que fuera oportuno, con motivo de los casos que ya han ocurrido y que fácilmente pueden seguir ocurriendo, por la naturaleza del terreno en que corre el Rio Grande.

Protesto á V. mi muy atenta consideracion.

(firmado)

LERDO DE TEJADA.

C. MATIAS ROMERO,

Enviado Extraordinario y Ministro

Plenipotenciario de la República Mejicana

En Washington, D. C.

Es copia, Washington, Enero 9 de 1867.

IGNO. MARISCAL.

[Subinclosure 1.]

Copia.

República Mejicana—Gobierno Supremo del Estado de Chihuahua.

Número 24. El Gobernador de Chihuahua. Trascibe una comunicacion de la Gefatura de Bravos, relativa á las dificultades

que se están ofreciendo por la variacion del cauce principal del Rio Bravo, en su margen inmediata á la Villa del Paso.

El Cº. Gefe político y Comandante militar del Distrito de Bravos en oficio número 113, fecha 17 del actual, dice á la Secretaría de Gobierno de mi cargo, lo que á la letra sigüe:

“ Desde el año de 1852, en que se marcaron los límites que en lo sucesivo dividirían á nuestra República de los Estados Unidos se designó como línea divisoria, en toda esta frontera, el canal mas profundo del Rio en la época en que se señalaron aquellos, y para fijarlos, teniendo presente las comisiones unidas de límites, la variedad de la corriente del Rio, debida á la clase de terreno que forma su cauce, disposicion señalar topográfica y astronómicamente aquel, para lo que se hicieron multitud de observaciones astronómicas, en toda su estension, por las dos comisiones, y principalmente por la Mejicana, que dejó situados en longitud y latitud, del Picacho antiguo, punto inicial, Morleros, el Paso, San Elizario, Presidio viejo, Presidio del Norte, San Carlos, etc., solo con el objeto de relacionar estos puntos con el canal mas profundo del Rio en aquella época, para que sirviera como he dicho, de límite perpetuo entre ambas Repúblicas.”

“ La falsedad del terreno en que corre el Rio, ha hecho que en el transcurso del tiempo, haya cambiado de corrientes en distintas partes, y mas notablemente abajo de San Elizario, á donde ha dejado todo el bosque que pertenece á aquel pueblo, de esta parte, y en esta Villa, en el Partido del Chamizal, á donde se ha llevado mas de mil quinientas varas, que antes eran propiedad de particulares y hoy son playas arenosas y tornillales, que segun lo espuesto anteriormente debían pertenecer al Paso; mas los Gefes de Franklin defienden este terreno como suyo, así como defienden tambien, el que en otras partes ha dejado el rio de este lado, como sucede en San Elizario; nosotros respetamos sus bosques, que el Rio ha dejado del lado derecho, y ellos los defienden tambien, porque estamos convencidos que les pertenecen; y ellos no respetan ni reconocen por nuestro, el terreno que el mismo rio nos ha quitado y ha dejado á la izquierda frente á Franklin.”

“ Hoy nos amenaza, y quizá el año entrante ó menos tarde dividirá el Paso, y quedará á la izquierda del Rio la mayor parte de la poblacion. En este caso, ¿ la parte que quede á la izquierda, pertenecerá á los Estados Unidos? Podrá ser que el mismo Rio vuelva á tomar su antiguo cauce, el que tenía el año de 1850, y deje á la derecha los pueblos de la Ysleta, Socorro y S. Elizario, en este caso, ¿ tales poblaciones pertenecerán á Méjico?”

“ Hasta hoy solo nosotros hemos respetado los límites que las comisiones respectivas fijaron, y por la otra parte no se respetan nada.”

“ Por lo que esta Gefatura, considerando los males que el Rio pueda causar á esta poblacion, había dispuesto sacar un canal en

el terreno que antes estaba á la derecha, y hoy está á la izquierda del Rio frente á esta Villa, para ver si era posible hacer que este cambiara de curso, y alejarlo de la poblacion haciendo que tomara otro cauce mas distante de ella, aunque fuera por su mismo terreno; mas las autoridades de Franklin no lo permiten, porque dicen que es ya de propiedades particulares, y porque las mismas lo han repartido á varios vecinos, miéntras que nosotros no podemos cortar ni palo en sus bosques, que el Rio ha dejado de este lado, sin que nos embarguen nuestras carretas y bueyes, y nos hagan pagar multas considerables.”

“Tales hechos, Señor, pone en conocimiento de ese Gobierno la Gefatura, por el digno conducto de V., para que se sirva dar conocimiento al C. Presidente de la República, y disponga lo que juzgue conveniente en el caso, pues puede suceder sin duda, que si el Rio no se hace tomar por su antiguo cauce, dividirá el Paso, como es muy probable que suceda, perdiéndose esta poblacion; sirviéndose V. aceptar las seguridades de mi aprecio y distinguida consideracion.”

Tengo el honor de transcribirlo á V., para que se digne acordar con el C. Presidente de la República la resolucion mas conveniente, en el importante asunto de que trata la Gefatura de Bravos.

Independencia, Libertad, y Reforma. Chihuahua, Octubre 31 de 1866—Luis Terrazas—C. Ministro de Relaciones Exteriores y Gobernacion—Presente.

Es copia, Chihuahua, Diciembre 5 de 1866.

Juan Valdes—Oficial 1.

Es copia. Washington, Enero 9 de 1867.

INGO. MARISCAL.

[Translation.]

MEXICAN LEGATION TO THE UNITED

STATES OF AMERICA,

WASHINGTON, *January 9, 1867.*

MY DEAR SIR: In observance of the charge I took on myself in our conversation to-day, I have the honor to send you copy of communication number 538, which Mr. Lerdo de Tejada addressed to me on the 5th of last month, about the change of the channel of the Rio Grande, on the boundary between Mexico and the United States, and likewise of the annexed document which accompanied it.

I remain, Mr. Secretary,

Your very respectful and faithful servant,

M. ROMERO.

Hon. W. H. SEWARD,

&c., &c., &c.

~~Document~~

~~Document. (1867) about and government—Section of relations—Treaty of Amer-
ica, number 34—Changes of the course of the Rio Grande on the divisional line
between Mexico and the United States~~

~~CHIEF OF THE DISTRICT, January 2, 1866.~~

~~I have in my possession a copy of a communication which the gov-
ernment of the State of Chihuahua addressed to me the 31st October
last, transmitting herewith from the political chief of the district
of El Paso, Texas, a list of the same month about the evidence there
should be in the archives of the legation respecting the manner
of proceeding of the boundary commission and of what is stipu-
lated in article 51 of the treaty of the 22 February, 1848, on the
permanence of the dividing line between the two republics, which
was not altered by article 15 of the later treaty of 30th December,
1853, in what relates to the present case.~~

~~Although the imperceptible changes caused by alluvion on
the banks of the Rio Grande could not be considered, it is not
possible to pass without notice the visible and important changes
caused by the force of the stream. It appears to be founded in
justice, and by the stipulations of the treaty, that in respect of the
unrecoverable portions of land which became fixed on the opposite
shore by the force of the river, the eminent domain of the nation
to which they belonged, and the private rights which there should
be existent over them, should continue.~~

~~If that government admits these principles, and in conformity
therewith is disposed to give instructions to the functionaries of
the United States in the districts of the dividing line, it seems it
would not be necessary to do anything more at present; but, in
the contrary event, your excellency will please to communicate
to me what may be the principles of that government in this par-
ticular, in order that what should be proper might be done in
respect of cases which already have occurred, and which may
possibly continue to occur from the nature of the soil through which
the Rio Grande flows.~~

~~I assure you of my respectful consideration.~~

LERDO DE TEJADA.

~~General MARTIN ROMERO,~~

~~Extraordinary and Minister Plenipotentiary
of the Mexican Republic at Washington.~~

WASHINGTON, January 9, 1867.

~~A. 1867~~

IGNO. MARISCAL, Secretary.

No. 24.

[Translation.]

MEXICAN REPUBLIC—SUPREME GOVERNMENT OF THE STATE OF
CHIHUAHUA.CHIHUAHUA, *October 31, 1866.*

The governor of Chihuahua transcribes a communication from the prefecture of Brazos relative to the difficulties which are presenting themselves by reason of the main channel of the Rio Bravo on its immediate bank at the Villa del Paso.

The political chief and military commander of the district of Brazos, in despatch No. 113 dated 17th instant, says to the secretary of the government in my care, what I copy to the letter:

“Since the year 1852, when the boundaries were marked which in the future should divide our republic from that of the United States along all this frontier, the deepest channel of the river at the time when those boundaries were marked was designated as the dividing line, and to fix them, the joint commission of boundaries, having in view the changeableness of the current of the river, owing to the character of the soil which constitutes its bed, made provision for designating that topographically and astronomically, for which purpose a multitude of astronomical observations throughout the whole extent were made by the two commissions, and mainly by the Mexican, which gave the situations in longitude and latitude of old Picacho, the initial point, Morleros, El Paso, San Elizario, Presidio Viejo, Presidio del Norte, San Carlos, &c., solely for the purpose of connecting those points with the deepest channel of the river at that period, that it might serve, as I have said, as a perpetual boundary between both republics.

“The shifting nature of the soil through which the river runs has caused, in course of time, a change in currents in different parts, and more notably below San Elizario, where it has left all the woodlands which belong to that town on this side, and in this villa, in the partido of the chamizal, where it has carried away more than fifteen hundred varas, which before that were owned by individuals, and now are slashes, sandy and ridged, which, as previously stated, ought to belong to El Paso; but the chief people in Franklin defend this land as theirs, as they also defend in other places what the river has left on this side, as is the case at San Elizario. We respect their woodlands, which the river has left on the right side, (and they also defend them,) because we are convinced that they belong to them; but they neither respect nor recognize as ours the soil which the same river has taken from us and left on the left front at Franklin.

“To-day it threatens us, and perhaps at the beginning of the year, or earlier, will divide El Paso, and the greater portion of the

town will be on the left bank. In such case, will the part which remains on the left bank belong to the United States? Should it be that the same river should return to its ancient channel—that which it held in 1850—and leave on the right the towns of Ysleta, Socorro, and San Elizario, in such case, will these settlements belong to Mexico?

“For these reasons this prefecture, considering the evils that the river may cause to this settlement, has arranged to clear a canal in the land which before was on the right, and now is on the left of the river in front of this town, to see if it would be possible to make it change its course, and place it at a distance from the settlement by causing it to take another channel more distant from it, although it should be on the same ground; but the authorities at Franklin don't allow this, because they say it is already private property, and because they have divided it up to various settlers, while we cannot cut a stick in their woods that the river has left on this side without their seizing our drays and oxen and making us pay heavy fines.

“This prefecture, sir, places these facts in the knowledge of the government through your worthy hands, that it may please inform the President of the republic, and do what he may think proper in the case, for it may doubtless happen that if the river does not take to its old channel, it will divide El Paso, and, as is very probable, may end in destroying that town. Please accept the assurances of my esteem and distinguished consideration.”

I have the honor to transcribe this for you, sir, that you may please agree with the President of the republic on the most proper solution of the important matter of which the prefecture of Brazos treats.

LUIS TENAGAS.

To the CITIZEN MINISTER OF

FOREIGN RELATIONS AND GOVERNMENT, present.

Chihuahua, December 5, 1866.

A copy:

JUAN VALDEZ, *First Officer.*

WASHINGTON, *January 9, 1867.*

A copy:

IGNO. MARISCAL, *Secretary.*

Mr. Seward to Mr. Romero.

DEPARTMENT OF STATE,

WASHINGTON *Feb. 5th, 1867.*

SIR: I have the honor to acknowledge the receipt of your note of the 9th ultimo, containing a copy of a communication addressed to you by Mr. de Tejada relative to the change of the channel of

the Rio Grande on the boundary between Mexico and the United States.

In reply I have the honor to state that the views of this Government on the subject complained of, are expressed in the opinion given on November 16th 1856, by the then Attorney General of the United States a copy of which is herewith transmitted.

I avail myself, &c.

W. H. SEWARD.

Señor DON MATIAS ROMERO,

&c., &c., &c.

[Inclosure.]

[OPINION OF ATTORNEY-GENERAL CUSHING, NOVEMBER 11, 1856.]

ARCIFINIOUS BOUNDARIES.

When a river is the line of arcifinious boundary between two nations, its natural channel so continues notwithstanding any changes of its course by accretion or decretion of either bank; but if the course be changed abruptly into a new bed by irruption or avulsion, then the river-bed becomes the boundary.

ATTORNEY GENERAL'S OFFICE,

November 11, 1856.

SIR: Your note of this date,^a communicating a clause in the draft of the proposed report of the Commissioners for determining the boundary between the Mexican Republic and the United States, presents the following question of public law.

A portion of the boundary is formed by the Rio Bravo, which is subject to change its course in two ways: first, by gradual accretion of one of its banks, followed, in many cases, by correspondent degradation of the opposite bank; and secondly, by the more violent action of the water, leaving its actual bed and forcing for itself a new one in another direction. In case of any such changes in the bed of the river, does the boundary line shift with them, or does that line remain constant where the main course of the river ran as represented by the maps accompanying the report of the Commissioners?

The response to this inquiry depends, in part, on the terms of the treaty between the two republics prescribing the boundary line, the material part of which, in so far as regards the present question, is to the effect, that the line "beginning in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande," shall proceed thence "up the middle of the river" to a certain point. The treaty further provides that commissioners appointed by the two governments shall survey and mark out

^a[For the letter of the Secretary of the Interior referred to and its inclosure see *infra*, p. 1129.—Agent's note.]

upon the land the stipulated line, which, as agreed upon and established by them, shall in all time be faithfully respected, without any variation therein, unless by express and free consent of both republics. (Treaty of December 30, 1853, X Stat. at Large, p. 1032.)

If the question here were of certain other parts of the boundary which are to run on parallels of latitude or by straight line from point to point, in that case the monuments placed by the Commissioners, or the line as otherwise fixed by descriptive words referring to natural objects, or by the drawings and maps of the Commissioners, would, it is plain, be conclusive, in all time, by force of the stipulations of the treaty. It would be the line agreed upon and established, even although it should afterwards prove that, by reason of error of astronomical observations or of calculations, it varied from the parallel of latitude where that was the line, or in the other part did not make exactly a straight line. So, if, in another portion of the boundary, which calls for the rivers Gila and Colorado, there were controversy concerning the identity of either as upon the north-eastern boundary of the United States, as there once was in regard to the true St. Croix, then, also, by force of the treaty, the determination of that point, by the Commissioners, would be conclusive in all time. But the present question is a different one, and depends in part for its solution upon other considerations.

In this case the boundary is not an astronomical or geographical line, but a natural object, defined by the treaty. And there is no equivocation here between two distinct natural objects, each of them answering to the descriptive language of a stipulation. It is the Rio Bravo, with a course as definite, and almost as destitute of tributaries and embranchments, in its main course, as the Nile. That is a fact which cannot be modified by surveys or reports.

However, the established principles of public law come in here to settle the question in all its relations.

The respective territories of the United States and of the Mexican Republic, are arcifinious; that is to say, territories separated not by a mathematical line, but by natural objects of indeterminate natural extension which of themselves serve to *keep off* the public enemy. Such are mountains and rivers. (Barbeyrac's Grotius, liv. ii, chap. 3, s. 16 and note; Cocceii Grotius Illustratus, ibid.)

When a river is the dividing limit of arcifinious territories, the natural changes to which itself is liable, or which its action may

produce on the face of the country, give rise to various questions, according to the physical events which occur, and the previous relation of the river to the respective territories. The most simple of all the original conditions of the inquiry is where the river appertains by convention equally to both countries, their rights being on either side to the *filum aquae*, or middle of the channel of the stream. That is the present fact.

With such conditions, whatever changes happen to either bank of the river by accretion on the one or degradation of the other, that is, by the gradual, and as it were, insensible accession or abstraction of mere particles, the river as it runs continues to be the boundary. One country may, in process of time, lose a little of its territory, and the other gain a little, but the territorial relations cannot be reversed by such imperceptible mutations in the course of the river. The general aspect of things remains unchanged. And the convenience of allowing the river to retain its previous function, notwithstanding such insensible changes in its course, or in either of its banks, outweighs the inconveniences, even to the injured party, involved in a detriment, which, happening gradually, is inappreciable in the successive moments of its progression.

But, on the other hand, if, deserting its original bed, the river forces for itself a new channel in another direction, then the nation, through whose territory the river thus breaks its way, suffers injury by the loss of territory greater than the benefit of retaining the natural river boundary, and that boundary remains in the middle of the deserted river bed. For, in truth, just as a stone pillar constitutes a boundary, not because it is a stone, but because of the place in which it stands, so a river is made the limit of nations, not because it is running water bearing a certain geographical name, but because it is water flowing in a given channel, and within given banks, which are the real international boundary.

Such is the received rule of the law of nations on this point, as laid down by all the writers of authority. (See ex. gr. Puffend. *Jus Nat.* lib. iv, cap. 7, S. ii; Gundling, *Jus Nat.* p. 248; Wolff, *Jus Gentium*, s. 106–109; Vattell, *Droit des Gens*, liv. i, chap 22. s. 268–270; Stypmanni, *Jus Marit.* cap. v, n. 476–552; Rayneval, *Droit de la Nature*, tom. i, p. 307; Merlin, *Répertoire*, ss. voc. alluv.)

I might multiply citations to this point from the books of public law. But, in order that either the United States or the Mexican Republic, whichever in the lapse of time shall happen to be inconveniently affected by the application of this rule, may be fully

reconciled thereto, it seems well to show that it is conformable to the common law of both countries.

I subjoin, before doing this, as authority for Mexican jurists and statesmen, citation from the works on international law of the highest authority in Spain and Spanish America.

Don Antonio Riquelme states the doctrine as follows:

“When a river changes its course, directing its currents through the territory of one of the two coterminous states, the bed which it leaves dry remains the property of the state (or states) to which the river belonged, that being retained as the limit between the two nations, and the river enters so far into the exclusive dominion of the nation through whose territory it takes the new course. Nations must, of necessity, submit their rights to these great alterations which nature predisposes and consummates. * * *

“But, when the change is not total, but progressive only, that is to say, when the river does not abandon either state, but only gradually shifts its course by accretions, then it continues still to be the boundary, and the augmentation of territory, which one country gains at the expense of the other, is to be held by it as a new acquisition of property.” (Derecho Internacional, tom. i, p. 83.)

Don Andres Bello and Don José Maria de Pando both enunciate the doctrine in exactly the same words, namely:

“When a river or lake divides two territories, whether it belong in common to the conterminous riparian states, or they possess it by halves, or one of them occupies it exclusively, the rights, which either has in the lake or river, do not undergo any change by reason of alluvion. The lands insensibly invaded by the water are lost by one of the riparian states, and those which the water abandons on the opposite bank increase the domain of the other state. But if, by any natural accident, the water, which separated the two states, enters of a sudden into the territory of the other, it will thenceforth belong to the state whose soil it occupies, and the land, including the abandoned river-channel or bed, will incur no change of master.” (Bello, Derecho Internacional, p. 38; Pando, Derecho Internacional, p. 99.)

Almeda refers to the same point, briefly, but in decisive terms. He says:

“As the river belongs to the two nations, so, also, the river-bed, if by chance it become dry, is divided between them as proprietors. When the river changes its course, throwing itself on one of two conterminous states, it then comes to belong to the state through whose territory it runs, all community of right in it so far ceasing.” (Derecho Publico, tom. i, p. 199.)

Leaving authorities of this class, then, let us come to those, which discuss the question in its relation to private rights, and as a doctrine of municipal jurisprudence.

The doctrine is transmitted to us from the laws of Rome. (Justinian. Inst. lib. ii, tit. i, s. 20-24; Dig. lib. xii, tit. i, l. 7. See J. Voet ad Pandect. tom. i, p. 606-607. Heinec. Recit. lib. ii, tit. 2, s. 358-369; Struvii Syntag. ex. 41, c. 33-25; Bowyers' Civil Law, ch. 14.)

Don Alfonso transferred it from the civil law to the partidas. (Partida iii. tit. 28, l. 31.) Thus it came to be, as it still remains, an established element of the laws of Spain and of Mexico. (Alvarez, Instituciones, lib. ii, tit. i, s. 6; Asso, Instituciones, p. 101; Gomez de la Serna, Elementos, lib. ii, tit. 4, sec. 3, no. 2; Escriche, dic. s. vocc. accesion natural, alluvion, avulsion; Febrero Mexicano, tom. i, p. 161; Sala Mexicano, ed. 1845, tom. ii, p. 62.)

The same doctrine, starting from the same point of departure, made its way, through the channel of Bracton, into the laws of England, and thence to the United States. (Bracton de Legg. Angliae, lib. ii, cap. 2, fol. 9; Blacks. Comm. vol. ii, p. 262; Woolrych on Waters, p. 34; Angell on Water Courses, ch. 2; Lynch v. Allen, iv De. & Bat. N. C. R. p. 62; Murry v. Sermon, i Hawk's N. C. R. p. 56; The King v. Lord Scarborough, iii B. & C. p. 91, S. C. ii Bligh N. S. p. 147.)

Such, beyond all possible controversy, is the public law of modern Europe and America, and such, also, is the municipal law both of the Mexican Republic and the United States. In my judgment, therefore, the tenor of the report of the Commissioners, in the clause submitted to me for consideration, is in substance correct; and, if it need modification to give to it absolute exactness, that result will be accomplished by the insertion of some word or phrase, which shall recognize the distinction, which exists in law, between gradual changes of a river-course by insensible accretion, and changes happening through the absolute diversion of its course, effecting avulsion of land from one or the other territory, or striking out a partially new channel through the territory of one or the other, which, it is suggested, is subject to occur in some part of the course of the Rio Bravo.

I have the honor to be, very respectfully,

C. CUSHING.

Hon. ROBERT McCLELLAND,

Secretary of the Interior.

Señor Romero to Mr. Seward.

LEGACION MEJICANA EN LOS
E. UNIDOS DE AMÉRICA,
WASHINGTON, 6 de Febrero de 1867.

Señor SECRETARIO:

He tenido la honra de recibir la nota que se sirvió V. dirijirme con fecha de ayer, en respuesta á la mia de 9 de Enero próximo pasado, con que transmití á ese Departamento copia de una comunicacion del Señor Lerdo de Fejada, Ministro de Relaciones Exteriores de la República Mejicana, relativamente á los cambios de cauce en el Rio Bravo, en los límites entre Méjico y los Estados Unidos. Con dicha nota me remite V. copia del dictámen dado el 16 de Noviembre de 1856, al Departamento del Interior, por el Hon. Caleb Cushing, á la sazón Procurador General de los Estados Unidos, sobre este mismo asunto, y cuyo dictámen agrega V. contiene los principios que profesa el Gobierno de los Estados Unidos á ese respecto.

He leído con interes ese dictámen, y me ha parecido que los principios en él enunciados, son equitativos y estan fundados en las doctrinas de los mas acreditados espositores del Derecho internacional. Con esta misma fecha transmito á mi Gobierno copia de aquel y de la nota de V. que lo acompaña.

En el mencionado dictámen se hace la debida distincion entre el caso de que el cambio del cauce de un rio que sirve de límite entre dos Estados, sea gradual ó por aluvion sin que se cambie su direccion general, y el en que tal cambio, ocasionado por la fuerza del rio, sea súbito y completo, y haga mudar la corriente. En el primer caso se considera que el cauce actual del rio sigue formando la línea divisoria y que el terreno agregado ó perdido en cada ribera,—se adquiere ó pierde para el Estado á quien pertenece la ribera que ha sufrido tales mutaciones; y en el segundo, que la línea divisoria no puede seguir el nuevo cauce, sino que permanece en el abandonado que el rio tenía antes de la mutacion violenta.

Al Gobierno de Méjico corresponde expresar su conformidad ó discrepancia con estos principios. Mientras recibo sus instrucciones sobre este punto, que comunicaré á V. oportunamente, no vacilo en aceptarlos entre tanto como razonables y equitativos. Como el caso de que se quejó el Gobernador del Estado de Chihuahua, y que sometí á V. con mi citada nota de 9 de Enero

próximo pasado, se encuentra parcialmente decidido en el dictámen de Mr. Cushing, me tomo la libertad de suplicar á V. que este documento se comuniqué oficialmente á las autoridades de los Estados Unidos en Franklin, Estado de Texas, y principalmente á los jefes militares del Fuerte Bliss en el mismo Estado, para que arreglen á él sus procedimientos; pues recordará V. que en el caso antes mencionado, al paso que consideran como propiedad de los Estados Unidos las porciones del territorio mejicano que el cambio de cauce del Rio Bravo ha dejado del lado izquierdo, no permiten que las autoridades mejicanas consideren como territorio mejicano el adquirido por el mismo principio, lo cual establece una desigualdad tan marcada, que determinó al Gobierno Mejicano á solicitar que el de los Estados Unidos espusiera los principios que desee observar, para que se aplicaran con igualdad en ambos casos.

El dictámen de 16 de Noviembre de 1856 resuelve en el mismo sentido la cuestion del derecho particular que los individuos tienen á la propiedad de los terrenos que el cambio del rio deja á una ú otra de sus riberas, en cuyo punto tambien no han procedido con igualdad las autoridades de los Estados Unidos en Franklin y el Fuerte Bliss. No dudo sin embargo que cuando reciban el dictámen normarán á él sus procedimientos.

Me es muy satisfactoria esta oportunidad para renovar á V., Señor Secretario, las seguridades de mi muy distinguida consideracion.

M. ROMERO.

Al Hon. WILLIAM H. SEWARD,
etc., etc., etc.

[Translation.]

MEXICAN LEGATION TO THE
UNITED STATES OF AMERICA,
WASHINGTON, *February 6th, 1867.*

MR. SECRETARY: I have had the honor to receive the note you were pleased to address to me, dated yesterday, in reply to mine of the 9th of January last, with which I transmitted to the department copy of a communication from Mr. Lerdo de Tejada, minister for foreign relations of the Mexican republic, relative to the changes of the stream of the Rio Bravo on the boundary line between Mexico and the United States. With said note you sent me copy of the opinion given November 16, 1856, to the Department of the Interior, by the Hon. Caleb Cushing, at the time Attorney General of the United States, on the same subject, which

opinion, you add, contains the principles which the government of the United States professes in this respect.

I have read that opinion with interest, and it has appeared to me that the principles enunciated therein are equitable and founded on the teachings of the most accredited expositors of international law. On this date I transmit to my government a copy thereof, and of your note which accompanies it.

In the opinion spoken of, the proper distinction is taken between the case of change of the stream of a river which serves as boundary between two states, whether gradual or by alluvion, without change in its general direction, and that in which such change occasioned by the force of the river be sudden and complete, and cause a change of current. In the first case it is considered that the actual reach of the river continues to form the divisional line, and that the land gained or lost on each bank is acquired or lost by the state to which the bank belongs which undergoes such changes; and in the second case, that the divisional line cannot follow the new stream, but continues along the abandoned one which the river followed before the violent mutation.

It pertains to the government of Mexico to express its conformity to or dissent from these principles. Until I receive its instructions on this point, which I will duly communicate to you, I hesitate not to adopt them, meanwhile, as reasonable and equitable. As the case about which the government of the State of Chihuahua complained, and which I submitted to you with my cited note of the 9th January last, is partially decided by the opinion of Mr. Cushing, I take the liberty to beg you that the document may be officially communicated to the authorities of the United States at Franklin, Texas, and chiefly to the military commanders at Fort Bliss, in the same State, so that they may regulate their proceedings thereby; because, you will remember, in the above-mentioned case, while they considered as property of the United States the portions of Mexican territory which the change of stream of the Rio Bravo has left on the left side, they do not permit the Mexican authorities to consider as Mexican territory that acquired on the same principle, which makes an inequality so marked that the Mexican government had resolved to request that of the United States for an exposition of the principles it wished to observe, that such might be equally applied to both sides.

The opinion of the 16th November, 1856, solves, in the same sense, the question of the several rights that individuals have to property in the lands which the change in the river leaves on one

or other of its banks; in which point, also, the United States authorities have not acted with equality in Franklin and at Fort Bliss. Nevertheless, I do not doubt that when they receive this opinion they will conform their procedure to it.

This occasion is very satisfactory to me to renew to you, Mr. Secretary, the assurances of my very distinguished consideration.

M. ROMERO.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Seward to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *February 25th, 1867.*

SIR: Referring to your note of the 9th ultimo, on the question of boundary between the United States and Mexico, and to the reply of this Department of the 5th, and the observations on the same contained in your note of the 6th instant, I have the honor to inform you that a copy of the whole correspondence has been sent to the Secretary of War for his consideration.

I avail myself of this occasion to renew to you the assurances of my very distinguished consideration.

WILLIAM H. SEWARD.

Señor DON MATIAS ROMERO,
&c., &c., &c. *Washington, D. C.*

Señor Palacio to Mr. Fish.

(Seal of the Mexican Legation)

WASHINGTON, *Agosto 11 de 1871.*

Señor SECRETARIO:

El infrascrito encargado interinamente de negocios de Méjico, tiene la honra de someter á la consideracion del Señor Secretario de Estado lo siguiente:

Desde hace como dos años, unos individuos que se titulan "Compañía del Muelle de Brownsville," han estado construyendo como á ciento cincuenta varas mas arriba de esa Ciudad, en la orilla izquierda del Rio Bravo del Norte, con direccion al centro de su corriente, estacadas ó malecones con el objeto de impedir que las aguas de dicho rio sigan el curso á que las impelen los accidentes naturales. Esas obras son por su propia naturaleza perjudiciales á la libre y segura navegacion del rio en alguna parte de él.

Ademas de eso, la modificacion artificial del curso de las aguas hace que estas se dirijan á la ribera derecha del rio, mas de lo que

lo harian si se las dejase libres, y que invadan el terreno perteneciente á Méjico hasta el punto de que hayan inundado algunos lugares que debían estar lejos de las aguas, hayan arrastrado la tierra en otros, y amenazen destruir una pequeña poblacion mejicana. No es este sin embargo el mayor daño que un cambio en el curso del rio puede producir; sino que alteraría la línea divisoria del territorio de Méjico y de los Estados Unidos fijada con arreglo á los tratados. La invasion del territorio mejicano por las aguas del rio, procedente de la causa espuesta, ha de ser lenta y paulatina creciendo de dia en dia; y mediante esta circunstancia, cuando alguna porcion del terreno que hoy se halla á la márgen derecha pasase á la izquierda, el Gobierno de los Estados Unidos podría pretender con apariencia de razon que dicho terreno había pasado á ser de su propiedad. Se le contestaría en verdad que el cambio no era efecto de causas naturales, sino procurado artificialmente y sin derecho; pero no hay duda en que se suscitaría una cuestion necesariamente desagradable. Si hoy puede evitarse ese resultado, parece lo mas conveniente el procurarlo, y ese es el objeto de la nota presente.

Las obras capaces de ofrecer algun obstáculo ó dificultad á la mas libre y cómoda navegacion del Rio Bravo, no se pueden hacer mas abajo del lindero meridional de Nuevo Méjico, sin consentimiento de los Gobiernos de Méjico y de los Estados Unidos, conforme al artículo 7 del tratado hecho entre los dos paises en 2 de Febrero de 1848, confirmado por el artículo 4 del tratado de 30 de Diciembre de 1853. Que obras como la de que aquí se trata por necesidad embarazan—mas ó menos—la navegacion, es evidente; puesto que ademas de estorbar el paso de embarcaciones, hacen variar la direccion, inflexiones y rapidez de la corriente, que son condiciones de navegabilidad.

El daño á los terrenos que invade el rio tambien es injusto y de evitarse, porque cada cual debe usar de su cosa sin perjudicar á otro.

Por último, el cambio, confusion ó duda posible en los límites de los dos paises, es un resultado demasiado serio y propio para producir consecuencias que se deben alejar todo lo posible.

Si el Señor Secretario de Estado hallare que hay algun fundamento en lo que dejo espuesto, le pido á nombre del Gobierno que represento, se sirva ordenar que cese la construccion de las obras mencionadas, y que por quien corresponda se haga cuanto sea necesario para restablecer la corriente del Rio Bravo al mismo

estado que tenía antes de que tales obras se comenzasen, y se la deje luego continuar al impulso de los accidentes naturales.

Me es grato con esta ocasion, reiterar al Señor Secretario de Estado las sinceras y respetuosas protestas de mi consideracion y aprecio.

FRAN^{co}. G. PALACIO.

Hon. HAMILTON FISH,

etc., etc., etc.

Washington, D. C.

[Translation.]

MEXICAN LEGATION IN THE
UNITED STATES OF AMERICA,
WASHINGTON, *August 11, 1871.*

Mr. SECRETARY:

The undersigned, provisionally Chargé d'Affaires of Mexico, has the honor to submit to the consideration of the Secretary of State the following:

For about two years, some individuals who style themselves the "Wharf Company of Brownsville," have been constructing about one hundred and fifty yards above that city on the left bank of the Rio Bravo del Norte, in a direction towards the centre of its current, stakes or dikes for the purpose of preventing the waters of said river from following the course to which they are impelled by natural causes. Those works are by their very nature prejudicial to the free and safe navigation of the river in any part of it.

Besides this, the artificial modification of the course of the waters causes them to take a direction to the right bank of the river greater than they would do if left free, and to invade the ground belonging to Mexico to such a degree that they have inundated some places which ought to be distant from them, have dragged the earth away in others, and threaten to destroy a small Mexican settlement. This, however, is not the greatest damage which a change in the course of the river may produce; it may alter the dividing line between the territory of Mexico and that of the United States which has been established in conformity to treaties. The invasion of the Mexican territory by the waters of the river, proceeding from the cause set forth, has been slowly and gradually increasing from day to day; and under these circumstances when any portion of the ground which now is on the right bank passes to the left, the Government of the United States might claim with

apparent reason that said ground had become its property. It might be replied with truth that the change was not the effect of natural causes, but obtained artificially and without right; but there is no doubt that it might stir up a question necessarily disagreeable. If such a result can now be avoided, it seems most appropriate to adopt measures for doing so, and that is the object of the present note. The capacious work of offering any obstacle or difficulty to the most free and convenient navigation of the Rio Bravo, cannot be effected below the southern boundary of New Mexico without the consent of the governments of Mexico and the United States, according to the 7th Article of the treaty concluded between the two countries on the 2d day of February, 1848, which is confirmed by the 4th article of the treaty of the 30th of December, 1853. That works like that in question do necessarily more or less obstruct navigation, is evident; since besides hindering the passage of vessels, they cause a variation in the direction, inflections, and rapidity of the current, which are conditions of navigability.

The damage to the grounds which the river invades is also unjust and to be avoided, because each should use his own without prejudicing another.

Lastly the possible change, confusion, or doubt as to the limits of the two countries is a very serious result, and is calculated to lead to consequences which should be removed as far as possible.

If the Secretary of State should find that there is any foundation for what I have stated, I request him in the name of the Government which I represent, to be pleased to order the construction of the works mentioned to be stopped and that through the appropriate authority everything may be done which is necessary to restore the current of the Rio Bravo to the same condition in which it was before such works were begun, and that thereupon it may be allowed to continue under the impulse of natural causes.

It is pleasant to me, on this occasion, to reiterate to the Secretary of State the sincere and respectful assurances of my consideration and esteem.

FRANCO. G. PALACIO.

Hon. HAMILTON FISH, &c. &c. &c.,

Washington, D. C.

Mr. Davis to Señor Palacio.

DEPARTMENT OF STATE,
WASHINGTON, *14th August 1871.*

The Undersigned, Acting Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Mr. Palacio, acting Chargé d'Affaires of Mexico, of the 11th instant, stating that an association styled the wharf Company of Brownsville, has been placing piles or dikes in the left bank of the river Bravo del Norte, pointing towards the middle of the stream, for the purpose of preventing the waters of that river from following their natural course. That these works interfere with the free and safe navigation of that river, cause it to impinge on the Mexican side, to inundate spots there which otherwise would be far from the water, to carry off land from others and to threaten the destruction of a small Mexican settlement.

Mr. Palacio further represents that the proceeding complained of would change the boundary line between the United States and Mexico as fixed by treaties. He consequently states the object of his note to be to avoid that result.

In reply the Undersigned has the honor to state that, prior to the receipt of the note of Mr. Palacio, this Department was not aware that any such work had been undertaken or was in contemplation. No such Company as that mentioned has been authorized by any law of the United States. Inquiry upon the subject will at once be made with a view to a redress of the grievance if this can be effected by Executive authority. The present impression, however, is, that if any rights secured to Mexico by treaties, shall have been invaded by individuals or by a Company in the way indicated, the proper course would be to apply to a Court of the United States to have the construction of the works forbidden and for any damages which may hitherto have been sustained in consequence of them.

The Undersigned avails himself of this occasion to offer to Mr. Palacio a renewed assurance of his high consideration.

J. C. B. DAVIS.

Acting Secretary.

To Señor DON FRANCISCO G. PALACIO,

&c., &c., &c.

Señor Palacio to Mr. Davis.

(Seal of the Mexican Legation)

WASHINGTON, Agosto 15 de 1871.

El Infrascrito, Encargado de Negocios ad interim de la República Mejicana, ha tenido la honra de recibir la nota del Señor Encargado del Departamento de Estado, fecha ayer y relativa á las obras que una Compañía de Brownsville construye en la márgen izquierda del Rio Bravo, por la cual se ha enterado de que el Departamento se propone hacer investigar la materia, y si hallare razon para ello dictar las disposiciones que dependan del Ejecutivo con objeto de remediar el mal en caso de que exista. Eso es todo lo que el infrascrito se propuso lograr con su aviso al Gobierno de los Estados Unidos, y debe dar las gracias al Señor Encargado del Departamento de Estado por la prontitud con que ha atendido á esta materia.

Mas el infrascrito halla ademas en la nota que contesta, la indicacion de que se deberia acudir á los tribunales para que se prohibiese la construccion de las obras y se pagasen cualesquiera daños que con ella se hayan causado. Si esta indicacion se refiere á la accion de particulares ciudadanos de Méjico que puedan haber resentido ó teman resentir algun daño, está el infrascrito enteramente de acuerdo; mas no puede estarlo en que el Gobierno de Méjico, en representacion de aquella nacion, deba pedir la esacta observancia de los tratados, ó reclamar alguna infraccion de ellos ante los tribunales de los Estados Unidos, pues presentarse en ellos como litigante para reclamar derechos que le corresponden en su calidad de Soberano, y en sus relaciones con otro Soberano su igual, sería colocarse en muy diversa posicion de la que le corresponde.

La escrupulosa conservacion de los límites entre los dos países, y el respeto que se debe á la línea divisoria es sin duda un asunto propio mas que ningun otro para que lo traten directamente los representantes del Poder Soberano.

Por lo mismo, el infrascrito espera que el Departamento de Estado se sirva participarle el resultado de las providencias que se dictaren para hacer efectiva la mas esacta observancia del tratado á que ha aludido.

El Infrascrito tiene la satisfaccion de reiterar al Señor Encargado del Departamento de Estado las protestas de su alta estimacion y aprecio.

FRAN^{co}. G. PALACIO.

Hon. J. C. BANCROFT DAVIS,
etc., etc., etc.

[Translation.]

MEXICAN LEGATION IN THE UNITED STATES OF AMERICA,
WASHINGTON, *August 15, 1871.*

The undersigned, Chargé d'Affaires ad interim of the Mexican Republic, has had the honor to receive the note of the Acting Secretary of State of yesterday's date, relative to the works which a company of Brownsville are constructing on the left bank of the Rio Bravo, from which he learns that the Department proposes to have the matter investigated, and if there shall be reason to do so to adopt such measures as appertain to the Executive authority with a view of redressing the grievance, in case there be any. This is all that the undersigned proposed to accomplish by his notice to the Government of the United States, and he must thank the Acting Secretary of State for the promptitude with which he has attended to this matter.

But the undersigned moreover finds in the note to which he is replying an intimation that application ought to be made to the courts to have the construction of the works forbidden and for any damages which may have been caused thereby. If this intimation refers to the action of private citizens who may have suffered or fear that they will suffer some damage, the undersigned entirely coincides; but he cannot agree that the Government of Mexico, through a representation of that nation, should ask for the exact observance of treaties or protest against any infraction of them before the courts of the United States; since to present itself in them as a litigant in order to claim rights which belong to it in its quality of Sovereign, and in its relations with another Sovereign its equal, would be to place itself in a very different position from that which is appropriate to it. The scrupulous conservation of the boundaries of the two countries, and the respect which is due to the dividing line, are beyond doubt more than anything else a proper subject of direct discussion between the representatives of the Sovereign Power.

For this reason the undersigned trusts that the Department of State will be pleased to communicate to him the result of the measures which may be adopted to render effective the most exact observance of the treaty to which he has alluded.

The undersigned has the satisfaction to reiterate to the Acting Secretary of State the assurances of his high esteem and appreciation.

FRANCO. G. PALACIO.

Hon. J. C. BANCROFT DAVIS,
 &c. &c. &c.

Mr. Fish to Señor Palacio.

DEPARTMENT OF STATE,

WASHINGTON, 7 March 1872.

TO SEÑOR DON F. G. PALACIO, &c., &c., &c.

SIR:

With reference to the correspondence which some months since, took place between you and this Department in regard to certain works at Brownsville in Texas which were supposed to interfere with the course of the Rio Grande river as defined by Treaty, I have the honor to communicate a copy of a Despatch of the 21st of December last, addressed to this Department by Mr. Thomas F. Wilson, the Consul of the United States at Matamoros. It appears from that paper that the navigation of the river is not impeded and no appreciable destruction of the bank on the Mexican side is occasioned by the works adverted to.

I avail myself of this occasion to renew to you the assurance of my high consideration.

HAMILTON FISH.

Mr. Wilson to Mr. Hunter.

No 68.

CONSULATE OF THE UNITED STATES OF AMERICA

MATAMOROS, Dec. 21st 1871.

HON. WILLIAM HUNTER

*Second Assist. Secy. of State.**Washington.*

SIR.

I have the honor to acknowledge Dispatch No 17 under date of the 15th of August last, which reached this Consulate during my late absence, enclosing a translation of a note addressed to the Department by Mr. Palacios Acting Chargé d' Affairs of Mexico, relative to works alleged to be in progress near Brownsville Texas for the purpose of diverting the course of the Rio Grande, and requesting me to enquire into the matter and report the facts to the Department.

In reply thereto I have to state that the Rio Grande at, and adjacent to, Brownsville is exceedingly tortuous. The valley through which this river passes, is composed of loose sandy deposits similar to those of the lower Mississippi. Whenever there is a sudden flood the banks are overflowed and frequently carried away, sometimes changing the course of the river for several miles. A few years ago the current of the river near Brownsville changed from the Mexican side, and washed away the bank in front of the

city, to such an extent, that the levee and front street of the city, with portions of several of the principal Ware-houses were destroyed and the existence of the whole city, more or less endangered, as well as the Government reservation of Fort Brown.

As the city authorities, or individual property holders were not able to cope with the invasion of the river, a company was chartered by the Legislature of the State of Texas, styled the "Brownsville Levee Company" which undertook to check this encroachment and restore the wharf Street H. and receive in compensation therefor the Wharfage in vessels and merchandise landing at Brownsville.

This Company constructed a crib or pier, along the city from the American bank, several hundred feet into the river, at an expense of thirty or forty thousand dollars, and checked the flow of the current towards Brownsville, and formed an Eddy in that side, which in high water has left considerable deposits and will gradually restore the bank to its former condition and protect the city from the threatened destruction.

The Crib or pier, has been completed for nearly two years, and does not extend into the natural channel of the river, and has not and cannot obstruct navigation in anywise. I have enquired of the Steamboat men on both sides of the river and without an exception they have informed me that it is no obstruction to free navigation. In fact the distance from the end of the pier to the Mexican side is about the usual width of the river.

As regards the allegation contained in Mr. Palacios' note, that the bank on the Mexican side had been carried away, by the change in the current resulting from the erection of the pier, thereby endangering a Small Mexican Settlement, I have been informed by reliable persons who have resided here for many years, that the settlement referred to—Santa-Cruz Point—is located on the gradual accretions of the river since the Treaty of 1848 and that the point in question is composed of particles degredated from the American side, and consequently being imperceptible accessions, the soil became Mexican, and the indications of the previous bed of the river appear to sustain this statement, which can only be definitely determined by a survey to ascertain the deep channel of the river at the time the Treaty of 1848 was concluded.

As the channel of the Rio Grand, and in fact the entire river, has changed in many places, from natural causes since the conclusion of the Treaty of Feb. 2d 1848—the Fifth Article of which established the deepest channel as the true boundary between the two

countries—and large pieces of land have thereby been detached from one side and formed on the other, and in some instances, the river has cut through, what was solid ground at that time, and has left large tracts belonging to both countries on either side of the river, the deep channel is no longer regarded as the true boundary. The local authorities of both countries collect taxes and exercise jurisdiction irrespective of the present river channel, where these changes have taken place, apparently in conformity with the principles of law enunciated in the opinion of Attorney General Cushing Nov. 11th 1856 and reaffirmed by Secretary Seward, in his Dispatch under date of Feb. 5th 1867 to Mr. Romero, and acquiesced in by the Mexican Minister, in his Dispatch of the 6th of Feb. 1867 as “equitable and founded on the teachings of the most accredited expositors of international law.”—Diplomatic correspondence of 1867 part 2d pages 513, 14 & 15, and 526 27, 28 & 29.—

Therefore the probable difficulties as to jurisdiction, mentioned by Mr. Palacios, which might arise by reason of the river transferring soil from one side to the other, near Brownsville, have already been disposed of in similar cases.

From present appearances, moreover, no trouble should arise, either from the crib or pier in question, as it does not obstruct the navigation of the river or the degradations from the Mexican side, which if any are unimportant, and confined to soil which had been accreting from the American side previous to the erection of the pier, which has only operated to prevent the river from seriously damaging the city of Brownsville, by encroaching on the American bank beyond the limits within which it was confined at the time of the Treaty of 1848.

I am unable therefore, to find in the erection of the crib or pier in question any appreciable damage, present or prospective, of which the Mexican Government can reasonably complain.

I had hoped to be able to enclose a map or profile of the river near Brownsville, showing the former and present channel, the encroachment on the city, and the location of the crib or pier, but on enquiry found that no such thing is in existence. Should the Department desire such a map or profile, for the better understanding of the matter, the Commander of Fort Brown, could perhaps cause it to be made with more accuracy than any other person.

I have the honor to be

Very Respectfully Your Obedient Servant

THOMAS F. WILSON,

Consul.

Señor Palacio to Mr. Fish.

(Seal of the Mexican Legation)

WASHINGTON, *Marzo 11 de 1872.*

Señor SECRETARIO:

Juntamente con la nota de V. fecha 7 de este mes he recibido copia de la que dirigió á ese Departamento el Consul de los Estados Unidos en Matamoros, haciendo esplicaciones sobre las obras construidas en el Rio Bravo, que á juicio de aquel funcionario ni estorban la navegacion ni dañan á los propietarios de terrenos en la orilla mejicana, ni pueden producir conflictos de jurisdiccion en la frontera de ambos paises, aunque esta segun parece se halla confusa y alterada por variaciones que han producido en el rio causas naturales.

He creido conveniente dar cuenta de dicha nota de V. y su anexo referido al Gobierno de Méjico, para que con vista de lo que en el último se dice, me ordene lo que debo hacer en el asunto.

Tengo la honra de reiterar á V. Señor Secretario, las protestas de mi muy distinguida consideracion.

FRAN^{co}. G. PALACIO.

Hon. HAMILTON FISH,
etc., etc., etc.

[Translation.]

LEGATION OF MEXICO,
WASHINGTON, *March 11th, 1872.*

Mr. SECRETARY.

Together with your note of the 7th inst., I received of the one addressed to your Department by the U. S. Consul at Matamoros, making explanations with regard to the works constructed in the Rio Bravo, which, in the opinion of that functionary, neither hinder navigation nor prejudice the interests of land-owners on the Mexican side, nor can they give rise to jurisdictional conflicts on the frontier of the two countries, although the latter, as it appears, is confused and altered by variations which have been produced in the river by natural causes.

I have thought proper to give an account of your note aforesaid, and of its enclosure, to the Government of Mexico, to the end that, in view of the statements made in the latter, it may give me orders as to what I am to do in the matter.

I have the honor to reiterate to you, Mr. Secretary, the assurances of my very distinguished consideration.

FRANCO. G. PALACIO.

Hon. HAMILTON FISH,
etc. etc. etc.

PERIOD 1876-1886.

Mr Fish to Señor Mariscal.

DEPARTMENT OF STATE,

WASHINGTON, 20 July, 1876.

Señor Don IGNACIO MARISCAL,

&c, &c, &c.

SIR:

You will recollect that on the 2d of December, last, you left with me a draft of a Convention on the subject of the boundary, the main purpose of which was to provide for the changes in the course of the Rio Bravo since the line was determined under the Guadalupe Hidalgo treaty of 1848. After the lapse of some time I furnished you with a counter draft of a Convention on the same subject which, if I am not mistaken, you said you would refer for the consideration of your government. The purpose of this communication is to inquire if you have since received any instructions in regard to the matter. Recent events seem to make it specially desirable that it should at once be definitely adjusted.

Accept, Sir, a renewed assurance of my very high consideration.

HAMILTON FISH.

Señor Mariscal to Mr. Fish.

[Seal of the Mexican Legation in America.]

NUEVA YORK Julio 22 de 1876.

Señor SECRETARIO:

He tenido la honra de recibir la nota de V. fechada el 20 del actual, en que se sirve recordar que el 2 de Diciembre último puse en sus manos un proyecto de convencion para resolver las dificultades ocasionadas por los cambios de curso en el Rio Bravo, y me manifiesta que algun tiempo despues me entregó un contra-proyecto sobre el mismo asunto, acerca del cual, segun recuerda V. dudosamente, le dije que daria cuenta á mi gobierno. En este supuesto me pregunta V. si he recibido instrucciones sobre la materia, diciéndome que algunos acontecimientos recientes parecen hacer necesario su arreglo definitivo.

Permítame V. traerle á la memoria lo que pasó realmente y numerosas y graves atenciones le han hecho olvidar por el momento. Habiendo yo presentado á V. en la citada fecha el asunto que se trata, no me dió V. su opinion acerca de el, expresarmelo en mas de una ocasion, por falta de tiempo para examinarlo con la atencion debida. Mas á fin de

una de las entrevistas que sobre otros negocios tuve la honra de tener con V. en el mes de Marzo, me hizo V. presente que habia pensado ya en el asunto y encontrada, para las dificultades que trataba de obviar mi proyecto, otra solucion que le parecia mas adecuada. Entonces se sirvió V. indicármela; y yo le contesté que mi proyecto contenia las ideas del Gobierno mexicano sobre el particular, por lo cual carecia de instrucciones para tratar de otras del todo diferentes; pero que si V. ponia por escrito las suyas, daría yo cuenta á mi Gobierno, para que me instruyera sobre el particular. No llegó V. á comunicarme su proyecto escrito; y por lo mismo aun no he hecho la consulta que para tal caso ofrecí hacer sobre el asunto.

Me complazco en reiterar á V. Señor Secretario, las protestas de mi muy alta consideración.

IGN^o. MARISCAL.

Hon. HAMILTON FISH,
&c. &c. &c.
Washington, D. C.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES OF AMERICA.

NEW YORK, *July 22d, 1876.*

Mr. SECRETARY.

I have had the honor to receive your note of the 20th inst. in which you remind me that on the 2d of December last I placed in your hands a plan of agreement for resolving the difficulties occasioned by the changes in the course of the river Bravo, and that some time after you delivered to me a counter agreement upon the same affair, concerning which, as you may remember, I said I would consult my government.

Upon this supposition, you ask me if I have received any instructions upon the subject, and telling me, that recent events would appear to make a definite arrangement actually necessary.

Permit me to remind you of what really took place, and which your numerous and important transactions have for the moment made you forgetful. I, having presented to you on the said date the scheme in question, you did not give me your opinion upon it, as you have informed me upon more than one occasion; from want of time to examine it with the necessary attention. But at the close of one of the interviews that upon other affairs, I had the honor to have with you in the month of March, you gave me to understand, that you had reflected upon the business and for the

difficulties my plan endeavoured to obviate; had found another solution more adequate. You then explained it to me, and I replied that my plan contained the ideas of the Mexican Government upon special matters, but that instructions were wanting for treating upon others entirely different, but that if you would put in writing your views, I would give an account to my Government, in order that it might instruct me specially.

You have not communicated to me your plan in writing, and for that reason I have not made the report that in such case I offered to make concerning the affair.

It gives me pleasure to reiterate to you, Mr. Secretary the assurances of my high consideration.

IGNO. MARISCAL.

Hon HAMILTON FISH, &c., &c., &c.

Washington, D. C.

Señor Romero to Mr. Frelinghuysen.

LEGACION MEXICANA EN LOS
ESTADOS UNIDOS DE AMERICA.

WASHINGTON, 13 de Marzo de 1884.

Señor SECRETARIO:

Tengo la honra de remitir á Ud copia de una comunicacion del Cónsul de México en Roma, Texas, fechada el 3 del corriente, de la cual aparece, en el caso de ser exactos todos los hechos que en ella se mencionan, que empleados fiscales de los Estados Unidos, han ocupado propiedades de mexicanos, con objeto de hacerles pagar derechos de importacion, cuando estos se ocupaban en trabajar en un terreno perteneciente á México, conforme á los límites demarcados por los tratados vigentes.

A reserva de hacer por mi parte las averiguaciones correspondientes sobre estos hechos, he creído de mi deber comunicarlos á la vez á Ud, para que si le pareciere conveniente obtenga tambien los informes respectivos de las autoridades de los Estados Unidos, con objeto de terminar este asunto en su oportunidad con la justificacion debida.

Aprovecho esta oportunidad para reiterar á Ud Sr. Secretario, las seguridades de mi mas distinguida consideracion.

M. ROMERO.

Al Hon. FREDERICK T. FRELINGHUYSEN,

etc., etc., etc.

[Inclosure.]

"CONSULADO DE LOS E. U. MEXICANOS "

"ROMA, TEXAS, *Marzo 3 de 1884.*"

"El ciudadano mexicano D. Manuel Garza Peña, vecino de Mier, por sí y á nombre de sus herederos, se ha presentado ayer á este Consulado manifestando que, como dueños de la isla de Morteritos, se ocupaban en los trabajos de la siembra de dicha isla, y que el dia 27 de Febrero proximo pasado se presentaron en ella Luciano Muñoz y Jorge Lowe, que con el carácter de guardas de la aduana de Roma, Texas, les exigieron que los trabajadores con los bueyes y demas bestias que allí tenían, consistentes en doce bueyes con sus aperos, dos caballos y una yegua marcharan para Roma, Texas, por considerar aquellos animales introducidas de contrabando á territorio de los Estados Unidos.

La posesion de la citada isla siempre se ha considerado territorio mexicano y á este pais han pagado los dueños sus contribuciones, estando fuera de la linea que divide á entrambas naciones, segun los tratados ratificados el año de 1854 á la izquierda de dicha isla, y por el brazo del rio que en la actualidad se halla seco.

Yo tengo la honra de comunicarlo á V. para los fines consiguientes, protestando á V. Señor Ministro, las seguridades de mi mas atenta consideracion. (Firmado) José M. Quiñones, Consul—Al Ministro de Mexico—Washington."

Es copia, Washington, D. C., Marzo 13 de 1884.

CAYETANO ROMERO.

Secretario.

[Translation.]

LEGATION OF MEXICO IN THE U. S.

WASHINGTON, *March 13th, 1884.*

Mr. SECRETARY,

I have the honor herewith to send you a copy of a communication from the Consul of Mexico at Roma, Texas, bearing date of the 3d instant, from which it appears (provided that all the statements contained therein are correct) that the custom house officers of the United States have taken possession of property belonging to Mexicans, for the purpose of compelling them to pay import duties, when they were engaged in cultivating land which, according to the treaty now in force, belongs to Mexico.

Although it is my purpose to make inquiry with regard to the facts reported by Mr. Quiñones, I have deemed it my duty to communicate them to you without delay, so that, if you think proper, you may obtain a report from the United States authori-

ties, with a view to the settlement of this matter in accordance with the requirements of Justice.

I avail myself of this occasion to reiterate to you, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. FREDERICK T. FRELINGHUYSEN,
etc, etc, etc.

[Inclosure.]

CONSULATE OF THE U. S. OF MEXICO,
ROMA, TEXAS, *March 3d, 1884.*

A Mexican citizen named Manuel Garza Peña, residing at Mier, called yesterday at this Consulate and declared, in his own name and in that of his heirs, that, as owners of the island of Morteritos, they were engaged in sowing grain on that island, and that, on the 27th day of February last, Luciano Muñoz and George Lowe, custom house guards, came there and told them that the men whom they had employed there, would have to go to Roma, Texas, together with all the domestic animals that were then in use for the performance of the work, said animals consisting of twelve oxen, two horses and one mare. This was required because those animals were considered as having been smuggled into United States territory.

The island in question has always been considered as Mexican territory, and its owners have paid their taxes to Mexico, it being beyond the line that divides the two Republics, which, according to the treaty ratified in 1854, runs to the left of the said island, and through the arm of the river which is now dry.

I have the honor to communicate the foregoing to you for such purposes as you may think proper, and to offer you, Mr. Minister, the assurances of my most respectful consideration.

(signed) JOSÉ M. QUIÑONES, *Consul.*

To the Minister of Mexico, Washington.

A copy.

CAYETANE ROMERO, *Sec'y.*

Washington, D. C., March 13, 1884.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *April 8, 1884.*

Señor Don MATIAS ROMERO, &c.

SIR: I have the honor to acknowledge the receipt of your note of the 13th ultimo, and to say that as desired, I have referred a

copy of the same to the Secretary of the Treasury, to the end that an investigation may be had of the circumstances reported by the Consul of Mexico at Roma, Texas, of the alleged seizure by the Customs Authorities there of property said to belong to Mexican citizens, owners of the island of Morteritos. Upon the receipt of Mr. Folger's response, I shall have pleasure in apprising you of its purport.

Accept, Sir &c.

FRED^K. T. FRELINGHUYSEN.

Mr. Frelinghuysen to Mr. Morgan.

No. 550.

DEPARTMENT OF STATE,
WASHINGTON, *April 23, 1884.*

PHILIP H. MORGAN, Esq. &c.

SIR: I transmit, herewith, a copy of a letter from the Acting Secretary of the Treasury, of the 8th instant, with its accompaniments, reporting that a party of Custom House officers from Mier, Mexico, had crossed to the U. S., seized and conveyed to Mexican territory twenty-five head of cattle.

A careful examination of the papers accompanying Mr. French's letter leads to the belief that our claim to jurisdiction over the small islands in question and consequently to the land between them and the Texas bluffs, is sound and should be maintained.

You will accordingly bring the matter to the attention of the Mexican Government asking that the cattle in question be returned to their owners.

I here add for your personal information, in this connection a copy of a note of the 13th ultimo, wherein the Minister of Mexico at this capital, reports the seizure by our customs authorities at Roma, of cattle said to belong to Mexican citizens, alleged to be the owners of the island of Morteritos, understood to be one of those referred to in the Treasury correspondence.

I am, Sir, &c.,

FRED^K. T. FRELINGHUYSEN.

Enclosures: Mr. French to Mr. Frelinghuysen, April 8, 1884, with accompaniments.

Mr. Romero to Mr. Frelinghuysen, Mar. 13, 1884, with accompaniment.^a

^a [For this enclosure, see *supra*, p. 581.—Agent's Note.]

[Inclosure.]

Mr. French to Mr. Frelinghuysen.

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TREASURY DEPARTMENT,

April 8th, 1884.

Hon. FREDK. T. FRELINGHUYSEN

Secretary of State

SIR: I have the honor to enclose herewith, for such action in the case as you may deem proper, a copy of a letter of the 26th ultimo, from the Collector of the port of Brownsville, Texas, transmitting a copy of a communication from Mr. Monroe, a lawyer of Rio Grande City, Starr County, in the Collector's district, reporting that a party of Customs Officers from Mier, Mexico, had passed to the United States side of the Rio Grande and seized and carried to Mexico some twenty five head of cattle.

A sketch of the locality of the seizure is also submitted with an explanation showing it to be American territory, notwithstanding the Mexican claim thereto.

Very respectfully,

H. F. FRENCH

Acting Secretary.

[Sub-inclosure 1.]

Mr. Haynes to Mr. French.

CUSTOM-HOUSE, BROWNSVILLE, TEXAS,

Collector's Office, March 26th, 1884.

SIR: I have the honor to enclose, herewith, a letter from Mr. Munroe a lawyer of Rio Grande City, Starr County in this District advising me that a party of Customs Officers from Mier, Mexico, had passed over to this side of the Rio Grande and had seized and carried to Mexico some twenty five head of cattle. In order that you may understand the facts in regard to this seizure, I make the following statement, and I enclose a rough sketch of the vicinity where the seizure was made which will assist in more fully explaining the facts:—

On Febry 27. ult. a seizure of two horses, 12 oxen and 1 mare was made by Inspectors Lowe and Muños, of the sub-port of Roma, from Manuel Garza Peña on the land marked on the sketch as "*Porcion No. 75*," belonging to the Escobar family, the seizure having been made for the reason that the animals had been illegally imported without the proper Customs permit. The owner of the animals Mr. Peña claimed that the seizure was wrongful for the

reason that they were upon his land, and in the jurisdiction of Mexico. His basis for this pretension was that he owned a small island that existed in the Rio Grande when the Treaty of Gaudalupe Hidalgo was made which within the last three years has become attached to the main-land of Texas, by overflows of the river and filling up of the Channels by caving in of the banks in the Texas shore which he claims as accretions to his island and of course to Mexico, he claiming the entire flat formed by these cavings of the river to the present bluff bank on this side. This claim was too absurd to deserve any consideration. I suppose that it was in retaliation that the Mexican Customs Officials passed over to this side of the river and seized the animals upon the same land that Lowe and Muños made the seizure on Febry 27th ult.

The question of jurisdiction of these Islands (there are two of them) was settled by the Boundary Commission under Treaties with Mexico, of which Genl. W. H. Emory was the American Commissioner from whose report I quote as follows:

“One of the most important duties of our Survey was to determine to which side the Islands in the Rio Bravo belonged. For this purpose it was agreed between the Mexican Commissioner and myself to sound the river on each side of every island, and the centre of the deepest Channel should be the boundary line. * * * Up to Ringgold Barracks these islands are of little value, but above that they are of more importance. Islands Nos. 12 and 13 between Ringgold Barracks and Roma, *both fall to the United States*. No. 13, called on the map Beaver Island divides the waters of the river into three parts, and the Channel which lies nearest to the Mexican shore is so narrow that steamers can with difficulty pass through it, yet the branches are by reason of their shallowness wholly impassable for them. An attempt was made by the Mexican local authorities to arrest the steamboat in its passage through this Channel, but not only the Survey, but the actual experience of the navigator proved the narrower one to be the true Channel *and consequently the boundary between the two countries, &c.*” (Vol. 1. p 65.)

These are the two islands about which the Mexican local authorities are still raising questions, and they claim not only the Islands but also some 1,200 to 1,500 acres of land as accretion to the islands, in face of the fact that Islands and accretions are wholly attached to the Texas shore, and that there now exists only one Channel to the river and that the one made the boundary between the two Countries, by the Boundary Commission.

The matter is submitted to the Department with request that the military authorities at Ringgold Barracks be ordered to pro-

tect our territory and jurisdiction from invasion, and which I request as a measure of peace for there is a good deal of local excitement about the matter that may end in bloodshed if the proper authority does not act.

Very respectfully,

J. L. HAYNES,
Collector.

Hon. SECRETARY TREASURY, *Washington, D. C.*

[Sub-inclosure 2.]

Mr. Monroe to Col. Haynes.

(J. R. Monroe, Attorney at Law and Land Agent.)

RIO GRANDE CITY, TEXAS,
Mch. 20, 1884.

Col. J. L. HAYNES,
Collector, Brownsville.

DEAR SIR: On yesterday eve. at about 4 oclock, a party of men from the other side of the river came onto the land I am fighting for, owned by Antonio Escobar, and took therefrom about twenty-five cows and calves, claiming to be Custom House Officers. I let you know this at the request of the Justice of the Peace at Roma. I suppose this seizure is made to show that they had as much authority as Mr. Lowe and the Officers on this side.

Respectfully,

J. R. MONROE.

Señor Romero to Mr. Frelinghuysen.

[Seal of Mexican Legation in United States of America.]

WASHINGTON, *24 de Mayo de 1884.*

SEÑOR SECRETARIO:

Tengo la honra de informar á Ud., que he recibido un telégrama de la Secretaria de Relaciones Exteriores de los Estados Unidos Mexicanos, fechado ayer en la ciudad de México, en que se me comunica que el gefe de las fuerzas de los Estados Unidos en Roma, Texas, dice que tiene instrucciones del Departamento de Guerra, para ocupar la isla de Morteritos y Sabinos.

Como México ha estado siempre en posesion de esa isla, mi Gobierno me recomienda pida yo al de los Estados Unidos de América, que las cosas permanezcan en *statu quo*, mientras ambos Gobiernos se ponen de acuerdo sobre este asunto.

A un incidente relacionado con esa isla, se refirió la nota de esta Legacion á ese Departamento, de 13 de Marzo último, que fué contestada por Ud el 6 de Abril siguiente.

Aprovecho esta ocasion para renovar á Ud, Señor Secretario, las seguridades de mi muy distinguida consideracion.

M. ROMERO.

Al Hon. FREDERICK T. FRELINGHUYSEN,
etc., etc., etc.

[Translation.]

WASHINGTON, *May 24, 1884.*

Mr. SECRETARY,

I have the honor to inform you, that I have received a Telegram from the Ministry of Foreign Relations of the United States of Mexico, dated yesterday at the City of Mexico, in which I am informed that the Commander of the United States Troops in Roma, Texas, says that he has instructions from the War Department to occupy the island of Morteritos y Sabinos.

As Mexico has always had possession of that island, my Government instructs me to request that of the United States of America, that matters may remain in *statu quo*, until both Governments come to an agreement upon this subject.

A note from this Legation, having reference to a circumstance relative to that Island, was sent to your Department the 13th of March last which was answered by you on the 8th of April following.

I avail myself of this occasion to renew to you, Mr. Secretary, the assurances of my very distinguished consideration.

M. ROMERO.

The Hon. FREDERICK T. FRELINGHUYSEN
etc., etc., etc.

Señor Romero to Mr. Frelinghuysen.

[Seal of the Mexican Legation in the United States of America.]

WASHINGTON, *31 de Mayo de 1884.*

Señor SECRETARIO:

Refiriéndome á la conversacion que tuve esta mañana con Ud en el Departamento de Estado, respecto á la conveniencia de arreglar por medio de un pacto internacional, las dificultades que ocasiona el cambio frecuente en el curso del rio Grande, con motivo del incidente de la Isla de Morteritos que ahora tenemos pendiente, tengo la honra de manifestar á Ud que de los archivos de esta Legacion aparece que el 25 de Marzo de 1875 presentó el Sr.

Mariscal, Ministro entónces de México en Washington, á Mr. Cadwalader, Sub-Secretario de Estado de los Estados Unidos de América por estar ausente en ese dia el Secretario Mr. Fish, un proyecto de convencion para el arreglo de dichas dificultades. Mas tarde el 2 de Diciembre del mismo año, entregó el Sr. Mariscal á Mr. Fish otro proyecto adicionado con el mismo objeto.

Acompaño ahora á Ud copia del segundo proyecto del Sr. Mariscal, aunque no estoy seguro de que él exprese las miras del actual Gobierno de México sobre este asunto, y lo hago así con el objeto de llamar la atencion de Ud hacia este incidente que estimo de importancia y á consecuencia de nuestra conversacion de hoy respecto de él.

Aparece ademas que el 20 de Julio de 1876 dirigió Mr. Fish una nota al Sr. Mariscal diciéndole que algun tiempo despues de haber recibido dicho proyecto, le envió Mr. Fish un contraproyecto de convencion con el mismo objeto y le preguntaba si yo había recibido instrucciones de su Gobierno para arreglar este negocio.

El Sr. Mariscal contestó el 22 de Julio de 1876, la nota de Mr. Fish diciéndole que no había recibido el contraproyecto de convencion á que se refería el Secretario de Estado, que en una entrevista con él, en Marzo de 1876 le había ofrecido enviarle el contraproyecto, pero que no lo llegó á recibir. Tampoco aparece que se haya enviado posteriormente á este Legacion.

Me ha parecido oportuno referir á Ud estos antecedentes por si creyere Ud conveniente formular ahora las ideas del Gobierno de los Estados Unidos respecto de este asunto con objeto de que pueda yo someterlas al de México.

Acepte Ud Señor las seguridades de mi mas distinguida consideracion.

M. ROMERO.

Al Hon. FREDERICK T. FRELINGHUYSEN,

etc., etc., etc.

[Inclosure.]

PROYECTO DE CONVENCION PRESENTADO EN ESTA FECHA POR EL
MINISTRO DE MÉXICO AL HON. SECRETARIO DE ESTADO DE LOS
ESTADOS UNIDOS.

Por cuanto, en virtud del artículo 5 del tratado de Guadalupe Hidalgo, algunas porciones de la linea divisoria entre los dos paises están marcadas respectivamente por el rio Gila y el Rio Grande, con el fin de evitar las dificultades que puedan ocurrir

por los cambios á que los mencionados rios—como otros muchos—están sujetos en cualquier tiempo, sucediendo esto especialmente con el Rio Grande, las altas partes contratantes han convenido en lo siguiente:

La linea divisoria será siempre la que previene dicho tratado, á pesar de cualquiera alteracion en las riberas y aun en el curso de los rios á que se alude, con tal de que la alteracion se efectue gradual y lentamente por obra natural del aluvion.

II.

Cualquiera otra alteracion en el curso ó las riberas de esos rios, no producirá cambio alguno en la linea divisoria astronómicamente fijada por las comisiones de límites de ambos Gobiernos en 1852 y que va por enmedio de la corriente de los rios segun el curso que tenian al tiempo del reconocimiento.

III.

Si, por fuerza de la corriente, una parte del territorio de una de las dos naciones fuese arrancada de una orilla y llevada adentro de los límites de la nacion vecina, dicha parte seguirá perteneciendo á la nacion á que correspondia anteriormente.

IV.

A pesar de cualquiera de las alteraciones á que se alude en los artículos precedentes, el derecho de navegacion comun á los dos paises que se especifica en el artículo 7 del tratado de Guadalupe Hidalgo, continuará sin detrimento en las porciones del rio que de nuevo aparecieren comprendidas dentro del territorio de una de las dos naciones.—Washington, Diciembre 2 de 1875."

Es copia.

WASHINGTON, *Mayo 31 de 1884.*

CAYETANO ROMERO. *Srio.*

[Translation.]

LEGATION OF THE UNITED MEXICAN STATES

Washington, 31st May, 1884.

MR. SECRETARY:

Referring to the conversation which I had this morning with you at the Department of State with respect to the advisability of settling by means of an international compact the difficulties which are occasioned by the frequent change in the course of the Rio Grande, the subject being brought up by the incident of Morteritos Island which is now pending, I have the honor to state

to you that I find from the archives of this legation that on the 25th of March, 1875; Mr. Mariscal, then Minister of Mexico in Washington, presented to Mr. Cadwalader, Assistant Secretary of State of the United States of America, Mr. Fish, the Secretary, being absent that day, a draft of a convention for the settlement of such difficulties. Later, on the 2d December, of the same year, Mr. Mariscal delivered to Mr. Fish another draft relating to the same object.

I herewith enclose for you a copy of the second draft of Mr. Mariscal, although I am not sure that it expresses the views of the present Government of Mexico on this subject, and I do this for the purpose of calling your attention to the incident which I consider as of importance, and as naturally following our conversation of today with respect thereto.

It appears moreover that on the 20th July 1876, Mr. Fish addressed a note to Mr. Mariscal telling him that sometime after having received the aforesaid draft he (Mr. Fish) had sent to him a counter draft of a convention to the same end, and inquired if he had received instructions from his government to carry out the negotiation.

Mr. Mariscal replied to the note of Mr. Fish on the 22d July, 1876, informing him that he had not received the counter draft referred to by the Secretary of State, that in an interview with him in March 1876 he had offered to send him such a counter draft, but that he had not yet received it. Neither does it appear that it was subsequently sent to this legation.

It has seemed to me fitting to call your attention to these antecedents in order that, if you deem it proper, you may now formulate the ideas of the Government of the United States on this subject, so that I may submit them to that of Mexico.

Accept, sir, the assurances of my highest consideration.

M. ROMERO.

Hon. FREDERICK T. FRELINGHUYSEN,

&c, &c, &c.

[Translation.]

DRAFT OF A CONVENTION PRESENTED THIS DAY BY THE MINISTER OF MEXICO TO THE HONORABLE SECRETARY OF STATE OF THE UNITED STATES.

Whereas, in virtue of the 5th Article of the Treaty of Guadalupe Hidalgo, certain parts of the dividing line between the two countries are ~~marked~~ respectively by the River Gila and the Rio

Grande, and to the end of avoiding the difficulties which may arise through the changes to which those rivers, like many others, are subject at any time, this being especially the case with the Rio Grande, the high contracting parties have agreed upon the following:

I.

The dividing line shall forever be that laid down in the said treaty, notwithstanding any alterations in the banks or even in the course of the Rivers above mentioned, provided that the alteration be effected gradually and slowly through the natural deposit of alluvium.

II.

Any other change whatsoever in the course or the banks of those rivers shall produce no change whatever in the dividing line astronomically fixed by the boundary commissions of both governments in 1852, and which line follows the middle of the current of the rivers according to the course which they followed at the time of the survey.

III.

If through the force of the current a part of the territory of one of the two nations be carried away from one bank and be deposited within the limits of the neighboring nation, such part shall continue to belong to the nation to which it previously belonged.

IV.

Notwithstanding any of the changes hereinbefore mentioned in the preceding articles the right of navigation common to the two countries, specified in Article 7 of the treaty of Guadalupe Hidalgo, will continue without prejudice in the parts of the river which may appear *de novo* as comprised within the territory of either of the two nations.

WASHINGTON, *May 31, 1884.*

A true copy

CAYETANO ROMERO,
Secretary.

Señor Romero to Mr. Frelinghuysen.

[Seal of the Mexican Legation in
United States of America.]

WASHINGTON, *Junio 2 de 1884.*

Señor SECRETARIO:

Tengo la honra de informar á V., que hoy he recibido una nota de la Secretaría de Relaciones Exteriores de los Estados Unidos Mexicanos, fechada en México el 23 de Mayo próximo pasado, en la cual se me informa que segun los datos que tiene dicha Secretaria, las islas de Morteritos y Sabinos á que se refirió mi nota á ese Departamento, de 24 de Mayo citado, pertenecen á México por haber quedado, al trazarse la linea divisoria entre los dos paises, conforme al articulo V del tratado de límites de 2 Febrero de 1848, á la derecha del canal mas profundo del rio, por lo cual han estado desde entónces en posesion de México, formando parte de la municipalidad de Mier, en el Estado de Tamaulipas:

Es cierto que por un cambio reciente en las corrientes del Rio Bravo, ambas islas han quedado en la márgen izquierda del brazo mayor y canal mas profundo de dicho rio, pero como en concepto del Gobierno Mexicano, la linea divisoria entre los dos paises es la que marcó la Comision mixta reunida conforme al tratado de 2 de Febrero de 1848, no puede haber duda respecto de la legitima pertenencia de aquellas islas.

Creo innecesario decir á V. que son estas, las islas Nos. 12 y 13 de que habla el Mayor William H. Emory, gefe de la Comision de límites de los Estados Unidos, en su informe al Secretario del Interior, fechado en esta ciudad el 29 de Julio de 1856, paj. 65, Volumen I.

En virtud de estos hechos, el Gobierno de México espera que el de los Estados Unidos reconocerá el derecho de México á dichas islas derivado de un tratado vigente entre ambos paises, y de la demarcacion de la linea hecha conforme al mismo tratado y apoyada por la posesion no interrumpida de cerca de cuarenta años.

Acepte V., Señor Secretario las seguridades de mi muy distinguida consideracion.

M. ROMERO.

Al Hon. FREDERICK T. FRELINGHUYSEN,

etc., etc., etc.

[Translation.]

LEGATION OF THE UNITED MEXICAN STATES,

WASHINGTON, *June 2, 1884.*

Mr SECRETARY,

I have the honor to inform you that I have today received a note from the Foreign Office of the United Mexican States, dated Mexico May 23 ultimo, in which I am informed that according to information possessed by that office the islands of Morteritos and Sabinos, referred to in my note to your Department of 24th May, belong to Mexico by reason of having remained when the dividing line between the two countries was laid down in conformity with article 5 of the boundary treaty of the 2d February 1848, on the right side of the deepest channel of the river, for which reason they have since then remained in the possession of Mexico, forming a part of the Municipality of Mier in the State of Tamaulipas.

It is true that by reason of a recent change in the currents of the Rio Bravo both of those islands are now on the left bank of the greater arm and deeper channel of the river; but as, in the opinion of the Mexican Government, the dividing line between the two countries is that which was laid down by the Mixed Commission which met in conformity with the treaty of February 2, 1848, there can be no doubt with respect to the legitimate ownership of those islands.

I think it unnecessary to say to you that these islands are those numbered 12 and 13 of which Major William H. Emory, Chief of the Boundary Commission of the United States, speaks in his report to the Secretary of the Interior, dated in this city July 29, 1856, page 65, Volume I.^a

In view of these facts the Government of Mexico hopes that the Government of the United States will recognize the right of Mexico to those islands which is derived from an existing treaty between the two countries and from the demarkation of the line made in conformity with the aforesaid treaty, and supported by an uninterrupted possession of nearly forty years.

Accept, Mr. Secretary, the assurances of my very distinguished consideration.

M. ROMERO.

Hon. FREDERICK T. FRELINGHUYSEN

&c, &c, &c.

^a [For the passage in Major Emory's Report here referred to see *infra*, p. 1069 at 1073.—Agent's note.]

Señor Romero to Mr. Frelinghuysen.

[Seal of the Mexican Legation in the United States of America.]

WASHINGTON, *5 de Junio de 1884.*

Señor SECRETARIO:

Refiriéndome á la conversacion que tuve esta mañana con Ud., en el Departamento, y á la nota que le dirijí el 31 de Mayo próximo pasado, sobre un proyecto de convencion para demarcar la línea divisoria entre México y los Estados Unidos sobre el Rio Bravo, segun fué convenida en el artículo V del tratado de 2 de Febrero de 1848, tengo la honra de comunicar á Ud., que he recibido una nota de la Secretaria de Relaciones Exteriores de los Estados Unidos Mexicanos, fechada en la ciudad de México, el 23 de Mayo citado, en que se me autoriza, con el fin de evitar en lo futuro las dificultades que frecuentemente se presentan por el cambio del cause de aquel rio, para celebrar un convenio con los Estados Unidos, con objeto de rectificar la línea divisoria desde Paso del Norte hasta el Golfo de México, bajo la base de que dicha línea sea el cause que seguia el Rio Bravo cuando se marcó la línea divisoria conforme al referido tratado, por la Comision mixta reunida en cumplimiento de sus estipulaciones, cuya línea se podrá marcar ahora por los medios que se estimen adecuados.

Estas instrucciones están sustancialmente de acuerdo, con las bases del proyecto sometido por el Sr. Mariscal á Mr. Fish desde el 2 de Diciembre de 1875, y al cual me referí en mi nota citada á ese Departamento, de 31 de Mayo próximo pasado.

Sírvase Ud. aceptar, Señor Secretario, las seguridades de mi muy alta consideracion.

M. ROMERO.

Al Hon. FREDERICK T. FRELINGHUYSEN,
etc., etc., etc.

[Translation.]

LEGATION OF THE MEXICAN UNITED STATES.

WASHINGTON, *June 5, 1884.*

Mr. SECRETARY:

Referring to the conversation which I had with you this morning at the Department, and to the note which I addressed to you on the 31st. of May ultimo, touching a project of a convention for fixing the dividing line between Mexico and the United States along the Rio Bravo in accordance with the Vth Article of the Treaty of February 2nd, 1848, I have the honor to inform you that I have received an instruction from the Department of

Foreign Relations of the United Mexican States, dated at the City of Mexico on the 23rd. of the said month of May, wherein I am authorized, to the end of preventing in the future the difficulties which frequently present themselves at the present time because of the change in the channel of that river, to conclude a convention with the United States for the purpose of correcting the dividing line from Paso del Norte to the Gulf of Mexico, upon the understanding that the said line shall be the channel which the Rio Bravo followed when the dividing line was laid down in conformity with the treaty referred to, by the Mixed Commission in fulfilment of the stipulations thereof, which line may be marked now by such means as may be deemed adequate.

These instructions are substantially in accord with the bases of the project submitted by Senor Mariscal to Mr. Fish on or about the 2nd. of December, 1875, and to which I referred in my aforesaid note to your Department of the 31st. of May last past.

Be pleased to accept, Mr. Secretary, the assurances of my very high consideration.

M. ROMERO.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,

WASHINGTON, *June 10, 1884.*

Señor Don MATIAS ROMERO,

etc., etc., etc.

SIR:

I have the honor to acknowledge the receipt of your note of the 2nd instant, touching the disputed jurisdiction over the islands of Morteritos and Sabinos in the Rio Grande, and to say that your representations upon the subject will have due and careful attention.

Accept, Sir, the renewed assurances of my highest consideration.

FRED^{ck}. T. FRELINGHUYSEN.

Señor Romero to Mr. Frelinghuysen.

[Seal of the Mexican Legation in the United States of America.]

WASHINGTON, *12 de Junio de 1884.*

Señor SECRETARIO:

Refiriendome á las notas que he dirigido á ese Departamento el 13 y 24 de Marzo último y 2 del corriente, respecto de las islas de Morteritos y Sabinos en el rio Bravo, de las que ha estado en

posesion México por considerarlas como parte integrante de su territorio, tengo la honra de informar á Ud. que hoy he recibido de la Secretaría de Relaciones Exteriores de los Estados Unidos Mexicanos, varios documentos que demuestran los derechos de México sobre dichas islas. Incluyo á Ud. copia de los principales de aquellos y de un cróquis anexo al informe del Ingeniero Garfias de 19 de Abril de 1880, con un índice que expresa sus fechas y da noticia sucinta de su contenido.

Aparece de dichos documentos que las islas mencionadas debieron quedar á la derecha del canal mas profundo del Rio Bravo al hacerse la demarcacion de límites conforme á los tratados de 2 de Febrero de 1848 y 30 de Diciembre de 1853, perteneciendo por consiguiente á México, segun el reconocimiento pericial del Ingeniero Don Ignacio Garfias (Documento anexo No. 4): que entre varios cambios operados en el lecho del rio por sus crecientes en el año de 1865, se verificó la union de la isla de Morteritos con otra que estaba á poca distancia quedando la nueva isla á la derecha del canal mas profundo del rio: que mexicanos eran los poseedores de la isla contigua á la margen derecha y ciudadanos de los Estados Unidos los poseedores de la otra; pero que al unirse ambas celebraron un convenio todos los interesados el 9 de Marzo de 1874 ante el juzgado de Mier, por el cual quedaron en posesion de toda la isla ciudadanos mexicanos: que la isla ha estado en posesion de México desde entónces, ejerciendose en ella actas de jurisdiccion, como el establecimiento en ella de una Seccion de vigilancia y sembrándose por ciudadanos mexicanos: que otro cambio recientemente operado en el canal mas profundo del Rio Bravo dejó á la isla de Morteritos á la izquierda del canal mas profundo, y con este motivo el 20 de Enero del presente año varios individuos armados de Roma, Texas, encabezados por W. W. Bohorman, juez de Roma en el condado de Starr, Texas, invadieron la isla de Morteritos, destruyeron algunas cercas y arrojaron á los propietarios mexicanos y se distribuyeron sus propiedades: que poco antes habian ocurrido vecinos de Roma á las autoridades judiciales de Texas, pidiendo que declarasen que las islas les pertenecian por accesion.

No me ocuparé ahora del incidente relativo á la propiedad particular de la Isla de Morteritos, que segun aparece de los documentos adjuntos se declaró pertenecer á Doña Guadalupe García por sentencia ejecutoria de la Suprema Corte de Justicia de México de 24 de Octubre de 1836, porque en esta nota trato solamente de demostrar su nacionalidad, esto es que forma parte del territorio mexicano.

Sin perjuicio de transmitir á Ud. el informe del Ingeniero que el Gobierno de México ha enviado nuevamente al rio Bravo á estudiar sobre el terreno este asunto y los demas datos que mas adelante reciba yo de mi Gobierno, tengo la honra de informar á Ud. que la Secretaría de Relaciones Exteriores de los Estados Unidos Mexicanos me ha comunicado en nota de 28 de Mayo próximo pasado que en los “documentos adjuntos se hallan irrefutables y copiosos datos para fundar de una manera inequívoca el dominio eminente de México sobre la Isla Morteritos, entre ellos el reconocimiento y sondeo practicados por nuestro Cónsul en Rio Grande City, la transaccion hecha por habitantes de los dos paises ante el juzgado de Mier sobre posesion de los terrenos de la isla, el informe del Ingeniero Garfias, y el hecho de haberse establecido una seccion de vigilancia en dicha isla, sin que el Gobierno de los Estados Unidos haya pretendido antes de ahora ejercer jurisdiccion en la misma isla ni estorbar la de las autoridades mexicanas.”

En virtud de estas consideraciones, el Gobierno de México me dá instrucciones para que “solicite yo del de los Estados Unidos se sirva expedir las órdenes necesarias para que no se embarace la libre accion de las autoridades mexicanas en aquella Isla.”

Sirvase Ud. aceptar, Señor Secretario, las seguridades de mi muy distinguida consideracion.

M. ROMERO.

Al Hon. FREDERICK T. FRELINGHUYSEN.

etc., etc., etc.

[Inclosure 1.]

Consulado de la República Mexicana en Rio Grande, City. No.

8. Ysleta en el Rio Bravo, cerca de Roma.—Rio Grande, City, Diciembre 26 de 1879.

Deseando evacuar lo mejor posible, el informe que se sirvió Ud. pedirme en su nota no. 7, fechada 9 de Agosto último, sobre la verdadera situacion y demas circunstancias de un islote del Rio Bravo que sirve de abrigadero á los contrabandistas, segun asegura el Gefe de la Seccion aduanal de Camargo; tengo la honra de manifestar á Ud., que he ido á visitar la indicada isla y á medir personalmente la profundidad de los dos brazos de rio que la forman.

La isla está en efecto muy cerca de la poblacion de Roma, frente á una rancheria americana llamada los Saenz, por una parte, y por la otra haciendo frente á los ranchos mexicanos de

Guardado y el Morterito; tiene aproximativamente unos dos mil quinientos metros de longitud y unos doscientos de latitud en su parte mas ancha, y por su posicion es realmente muy propia para hacer el contrabando.

Medí catorce veces la profundidad de cada uno de los brazos del rio en diferentes lugares de su extension longitudinal y obtuve los resultados siguientes, que expresan las diferencias de profundidad:

Sondeo de canal del Norte (lado americano)

1^m 16.—1^m 24.—1^m 47.—1^m 51.—1^m 72

1^m 78.—2^m 35.—2^m 70.

Sondeo del Canal del Sur (lado mexicano):

0^m 71.—0^m 89.—0^m 96.—1^m 05.—1^m 32

1^m 40.—1^m 52.

Este último canal, segun noticias, se seca á veces, mientras que el otro tiene siempre agua. De todo esto resulta que el mas profundo de los brazos del Rio Bravo que forman el isolote, es el que está al Norte y que conforme al artículo V del tratado de amistad y límites de 1848 y al artículo I del tratado de la Mesilla, debe considerarse dicho islote como una parte del territorio nacional. En cuanto á la historia de la isla he recojido los siguientes datos verbales:

Antiguamente el Rio Grande se dividia á la altura de la isla de que se trata, en tres brazos ó canales, uno central que seguía la direccion primitiva del rio, y dos laterales que se separaban el uno hácia el Norte y el otro hácia el Sur para reunirse á poco, dejando entre ellos dos lenguas de terreno que se consideraron uno como americana y como mexicana la otra, con sus dueños ó poseedores de las respectivas nacionalidades.

El año de 1865 hubo una grande creciente en el Bravo, la cual determinó varios cambios en su corriente, entre ellos el de que las dos lenguas de tierra indicadas se unieran para formar la isleta actual. Yo mismo he visto las senales de la antigua division de la isla, muy marcadas todavia, y he andado por el canal cegado del rio. Una vez unidas las dos partes de la isla, los diferentes dueños de ellas convinieron en lo particular en poseer la recientemente formada por partes iguales; pero andando un poco el tiempo, se desavinieron, ocurrieron á los abogados y terminaron su litigio con un convenio escrito, celebrado ante el Juzgado de Mier.

No he pedido al Juez de Mier informe ninguno acerca de lo que hubiere de cierto en esto, por qué no se si hubiera merecido aprobacion este paso. Por otra parte, si ese documento fuere preciso, creo que será despachado con mas eficacia é irá mas directamente pedido por esa Secretaría. Debo decir á Ud. para terminar, que me acompañaron en el exámen de la isla el Gefe de la Seccion aduanal de Camargo y D. Juan Villareal, persona respetable, Juez del Registro civil en Camargo y Magistrado de la Suprema Corte del Estado de Tamaulipas, y que procedimos con la mayor discrecion, prefiriendo hacer el viaje por el lado mexicano, no obstante ser por esta parte mas largo y dificultoso.

Renuevo á Ud. la protesta de mi muy atenta consideracion.

(Firmado) JOSÉ M^a ALMARÁZ

C. Ministro de Relaciones Exteriores.=México.

Es copia. Washington, Junio 12 de 1884

CAYETANO ROMERO,

Srio.

[Inclosure 2.]

Secretaría de Estado y del Despacho de Hacienda y crédito público.—Seccion 1^a.

Con fecha 17 de Enero próximo pasado dice á esta Secretaría la Aduana marítima y fronteriza de Matamoros.—El Gefe de la Seccion aduanal de Camargo en oficio númº 192, fecha 31 de Diciembre último, comunica á esta Aduana, lo que sigue,—“Tengo la honra de manifestar á Ud. que durante el mes que concluyó no ha ocurrido novedad notable en la Seccion de mi cargo.—Aunque la persecucion del contrabando se ha hecho con eficacia, principalmente por el occidente de esta ciudad, no se ha logrado hacer alguna aprehension, pues como dije en mi informe anterior, los que de Roma internan sus mercancías toman el rumbo de Oeste de Mier, habiendo abandonado su antigua ruta de Arroyo de San Antonio y el rancho de los “Aldamas” para salir cerca de le Villa de Parras; ó esperan á los dias últimos del mes para aprovechar la ausencia de los dragones que vienen á pasar revista. De acuerdo con el Gefe de la fuerza federal que está disposicion de esta oficina, dispuse que este mes no regresara la partida, pasando los dragones que la componen revista como presentes, en comision del servicio, para ver si se captura alguno de los defraudadores que de este abandono temporal se aprovechan; y del resultado de mis disposiciones daré aviso á esa Aduana.—Invitado por el Cónsul mexicano en Rio Grande, City, para que pasemos á la isleta que está

casí frente á Roma, de que hablé á esa Aduana en comunicacion no. 266 de fecha 14 de Junio, pasamos el dia 24 del actual á practicar un reconocimiento. Dicha isleta mide una extension de cerca de tres kilómetros de Oeste á Este y su mayor anchura es de unos doscientos metros: el canal mas angosto, que está del lado de la orilla mexicana, tiene en su mayor profundidad 1 metro 52 centímetros, siendo la menor de 71 centímetros. En mas de veinte sondages que se practicaron, encontramos una profundidad de 71 centímetros, 89.—96.—105.—132 y 152. Segun los vecinos del rancho de Morteritos, situado en la márgen derecha del rio trae poca agua, cosa que no sucede con el del Norte; y esto se comprende, pues encontramos en mas de veinte sondages, practicados tambien en toda su longitud desde el cabo occidental de la isleta hasta el oriental, las profundidades de 1 metro 16 centímetros, 1.24—1.47—1.57—1.72—1.78—2.35 y 2.70; siendo la diferencia entre las mayores profundidades de ambos canales de 1 metro y 18 centímetros, y 45 centímetros la de los menores. La isleta está poseida en comun por habitantes de ambas márgenes, habiendo dos esquifes del lado de Texas y otros dos del de México, que se ocupan en trasportar pasajeros sea á alguna de las orillas ó á la isleta, cosa que, segun mi informe que motivó el exámen del Cónsul, favorece á los defraudadores, que pueden salir de Roma, dirijirse á la isleta, y esperar allí que los empleados despejen los caminos.”

Tengo la honra de trasladarlo á Ud., aunque esa Secretaría probablemente ha recibido algun oficio relativo del Cónsul de México en Rio Grande, City, para que en lo concerniente á la ocupacion de la isleta conjuntamente por México y los Estados Unidos, se sirva tomar las resoluciones que sean de dictarse, dando de ellas conocimiento á esta Secretaría.—Libertad en la Constitucion.—México, Febrero 4 de 1880.

(Firmado) TORO.

Al Oficial Mayor, Encargado de la Secretaría de Relaciones Exteriores.—Presente.

Es copia. Washington, Junio 12 de 1884.

CAYETANO ROMERO,
Srio.

[Inclosure 3.]

“Un sello que dice—Juzgado Constitucional 3º de Mier—Sello 3º—Segunda clase—Cincuenta centavos—Para el bienio de mil ochocientos setenta y cuatro y mil ochocientos setenta y cinco. En la ciudad de Mier, á los nueve dias del mes de Marzo de mil ochocientos setenta y cuatro, reunidos los C. C. Luciano Muñoz,

Cesareo de los Santos, Florentino Lopez, Serapio Muñoz por sí y en representacion de sus hermanos, Simon Treviño por sí y en representacion de sus hermanos Vicente Vela, Wenceslao Martinez, Octaviano Longoria, en representacion de sus esposas los tres últimos y Rafael Garcia, vecinos unos de Roma, Texas, y otros de esta ciudad, y Francisco Canales, en representacion de su esposa, Sabás Saldaña por sí y en representacion de Jorge Garza, su hermano Juan de la Garza por su esposa y en representacion de los hijos del finado Antonio Garza y Rafael Peña Garza en representacion de su madre D^a Placida Garza, todos de esta vecindad, con el fin de deliberar sobre una transaccion para cortar de una manera completa el litigio promovido con respecto á las creces de la isla de Morteritos que colinda con tierra de los primeros; hicieron estos la proposicion de que arreglarían por su parte las dificultades si se les vendia un pedazo de tierra cuyas dimensiones y precio acordarian convencionalmente y aceptada que fué por parte de los herederos de la Isla de Morteritos dicha proposicion, convinieron en que estos darian en venta á los primeros una lonja de tierra que lindando con la de estos y con el costado derecho de la de Morteritos, tuviera tanto en la orilla del agua como en el lado que linda con tierra de los Peñas, ciento treinta y cinco pasos salomones y el ancho que sague de donde llegue el rio ó brazo de Texas hasta donde topa con la tierra de Peñas en la linea dada por ambas partes, por la cantidad de ochenta pesos \$80.00¢, mediante la escritura de venta que otorgarán extrajudicialmente para los efectos legales, terminando así el litigio del todo y para siempre, en que se encuentran ambas partes: que las lineas constantes en el presente convenio se irán á fijar de comun acuerdo por unos y otros interesados demarcandolas con una línea de palos para evitar que se susciten nuevas desavenencias; que si se promoviere por cualquier motivo algun pleito ó litigio, las Señores Muñoz y compartes ayudarán en proporcion á la parte de creces que reciben, á sufragar los gastos y costas que se originen á los Sres. Peñas; que despues de firmado el presente por todos las otorgantes se autorizará y archivará judicialmente suyetándose á cuanto queda dicho, en cuyo cumplimiento obligan sus bienes habidos y por haber.—Y porque así lo complirán extienden el presente en el lugar y fecha que queda expresado firmándolo en union de los Señores Ambrosio Gonzales y Porfirio Zamora como testigos presenciales—Luciano Muñoz—Una rúbrica—En representacion de mi padre Cesareo de los Santos Narciso de los Santos—Una rubrica—Florentino Lopez—Una rubrica—Por si y en representacion de mis hermanos—

Simon Treviño—Una rúbrica—Vicente Vela—Una rúbrica—Octaviano Longoria—Una rúbrica—Wenceslao Martinez—Una rúbrica—Francisco Canales—Una rúbrica—Sabas Saldaña—Una rúbrica—Manuel Garza, Una rúbrica—Rafael P. Garza—Una rúbrica—P. Zamora—Una rúbrica—Ambrosio Gonzales—Una rúbrica—Juzgado 3º. Constitucional Suplente de Mier, Marzo 14 de 1874—En esta fecha se presentaron ante este Juzgado los C. C. Francisco Canales y Octaviano Longoria en representacion propia y de sus coherederos que suscribieron el anterior convenio pidiendo que para que el expresado convenio tuviera mayor fuerza y validacion se autorizara por este Juzgado y se archivara en el protocolo de instrumentos públicos. Y yo, el Juez, atendiendo á la solicitud de los expresados Sres. Longoria y Canales, interpongo mi autoridad y judicial decreto para que el anterior convenio se eleve á instrumento público y mando se archive original en el protocolo de instrumentos públicos, como lo piden las partes, dándoles la copia ó copias de el que soliciten.—Y para constancia pongo este auto yo Refugio Garza, Alcalde 3º. Constitucional Suplente de esta ciudad, firmándolo en union de los de mi asistencia con quienes actúo segun derecho. Doy fé. Refugio Garza—Una rúbrica—Asistencia—Cástulo Perez—Una rúbrica—Asistencia—Ramon Hinojosa—Una rúbrica—Derechos sin el papel, cuatro pesos—Una rúbrica—Es copia de su original que certifica en la ciudad de Mier, á los veinticuatro dias del mes de Marzo de mil ochocientos ochenta y firmo yo—Tomás Ramirez Ramirez, Alcalde 3º. Constitucional suplente de esta ciudad y testigos de asistencia—Doy fé—Tomás R. Ramirez—Una rúbrica—Asistencia—Adolfo Garcia—Una rúbrica—Asistencia—Ramon Hinojosa—Una rúbrica.”

Es copia

Washington, Junio 12 de 1884.

CAYETANO ROMERO.

Srio.

[Inclosure 4.]

“Republica Mexicana. Ministerio de Fomento Colonizacion, Industria y Comercio. México. Seccion 3ª. N°. 2782. El C. Ignacio Garfias con fecha 16 del actual dice á esta Secretaria.

“De regreso en esta Capital despues de haber desempeñado las comisiones con que se sirviera V. honrar me, cumple á mi deber dar á V. cuenta con resultado de cada una de ellas—Comenzando en el órden cronológico paso á ocuparme del reconocimiento del Rio Bravo del Norte en la parte que ocupan las islas inmediatas á

Roma—Segun el tenor de la comunicacion de esa Secretaria y el de los artículos relativos del tratado de Guadalupe celebrado con el Gobierno de los Estados Unidos del Norte el 2 de Febrero de 1848, lo que se trata de averiguares si conforme á esos tratados, las islas son territorio nacional ó pertenecen al pais vecino.

El articulo V del tratado dice textualmente, “La linea divisoria entre las dos Repúblicas comenzará etc. . . . correrá por mitad de dicho rio, siguiendo el canal mas profundo; donde tenga mas de un canal etc” La linea divisoria que se establece por este artículo será religiosamente respetado por cada una de los dos Repúblicas y ninguna variacion se hará jamás en ella” etc.—En vista de estas clausulas tan claras y terminantes, tema que determinar no solamente el estado actual de los canales sino deducir el que segun el régimen del rio y las mapas relativas deba afectar en la época del trazo de los límites—No es en efecto la linea que de hecho existe en cualquiera tiempo la que las autoridades fronterizas reconocen como límite; en la necesidad constante de aplicar los articulos del tratado en todos los casos que así lo requieren han llegado á crear una doctrina que se reasume de la manera siguiente. Se reconoce la nacionalidad de su origen (la de la época del trazo de los limites) á todos los porciones de terrenos que por las variaciones en el cauce del rio, han pasado posteriormente de una márgen á otra del rio y solamente en los casos de jurisdiccion criminal se admite que los autoridades de cada pais puedan extender su accion á las porciones de territorio que han quedado á la margen que les corresponde, aunque la nacionalidad de estos terrenos sea distinta para aprehender á los delincuentes de su respectiva demarcacion, se observó en efecto en los primeros casos que se presentaron de cambio de márgen que reconocida la nacionalidad primitiva y no encontrando barrera natural ninguna los criminales se refugiaban allí teniendo que pedirse la extradicion en forma para aprehenderlos.—Esto entorpecia la marcha expedita de los tribunales y para obviar estas dificultades se estableció la doctrina expresada que está en vigor en toda la frontera y es religiosamente observada por las autoridades de ambos lados del rio. Hay muchos casos que acreditan la extricta observacion de este convenio tácito—Entre otras citaré uno de los mas notables. Establecido el campamento militar americano de Santa Maria á la orilla del rio, se determinó un cambio de cauce hacia la derecha dejando del lado izquierdo una considerable extension de terreno; aunque entre este terreno y el campamento no hubo desde entonces ningun obstáculo que impidiera un libre acceso, y forma desde

entonces parte integrante del terreno americano precisamente en uno de sus campamentos; como esto es simplemente un hecho motivado por un caso de fuerza mayor, se ha seguido respetando el derecho y los propietarios de ese terreno pagan sus contribuciones en México y están sujetos en todo á nuestras leyes.—Otros muchos casos semejantes se encuentran en ambas orillas del rio y en todos ellos se observa la misma práctica, por lo menos en la parte que corresponde al Estado de Tamaulipas.—Es vista de estos hechos y de conformidad con lo que el tratado establece á este respecto de que no se reconocerá variacion alguna sino que el límite será *siempre* el que demarcaba el rio en la época del trazo de la linea, creí necesario no limitarme á fijar el estado actual del cauce sino deducir el lugar del canal mas profundo cuando se levantaron los planos de la linea limítrofe, tomando por datos la forma del rio que se encuentra en aquellos planos y su régimen estudiado y determinado en distintos puntos desde su desembocadura hasta el de que se trata.—Como es sabida, en todo rio el canal se determina del lado cóncavo de las curvas, formándose los atierres en el lado convexo; en los diversos rios que he estudiado, cuyos planos pueden consultarse en los archivos de esa Secretaria, no hay un solo caso que no esté conforme con esta regla; es tan generalmente reconocida en todas las localidades en que la proximidad de un rio permite hacer esta observacion aun á sus mas rudos habitantes, que estos en su lenguaje peculiar usan un aforismo tan exacto como expresivo—“Huye de la playa y cárgate al barranco”—Llaman en efecto playa á los bancos formados por el acarreo que en la época del estiage dejan las aguas en descubierto y barranco á la parte acantilada de los diques, que el choque de las corrientes mina constantemente, determinando allí la mayor profundidad. Ahora bien, tanto por la observacion como por las reglas mas triviales de la fisica, se sabe que el choque de las corrientes es en la parte cóncava de las curvas: siguiendo en efecto las aguas la direccion que afectan los diques que las contienen, cuando esta direccion es interrumpida por una curva, lo que en realidad se verifica es que interponiéndose algun obstáculo que impide á las aguas seguir la linea que les viene trazando su cauce, no cambian de direccion sino obligadas por aquel obstáculo entre el cual chocan produciendo los derrumbes que son consiguientes: por el contrario, siguiendo las aguas la direccion de la tangente de las curvas, queda en una quietud relativa todo el lado convexo produciéndose allí el depósito de todos los cuerpos de mayor densidad que arrastra la corriente.—En pocos casos hay tanta

conformidad entre los hechos y las teorías; puede establecerse como indiscutible que el canal en un río está siempre del lado cóncavo de las curvas y deducir de este principio cual era el canal mas profundo en la época del trazo de los límites tomando por dato las formas que afectan el río en los planos respectivos.—Antes de la bifurcación del río para formar la isleta de Sabinitas, la convexidad está del lado mexicano; este detalle no deja duda respecto del canal que debió ser el mas profundo al bifurcarse el río, pero ademas hay la circunstancia de que toda la gran vuelta en que está comprendida la isleta y la población americana llamada Roma, tiene la parte cóncava del lado izquierdo y la convexa en el derecho, quedando la cuesta en terreno mexicano, es claro que el canal debió estar por toda la orilla izquierda dejando la isleta á la derecha—En corroboración de lo que la teoría nos hace deducir hay el hecho de existir una rompiente en la boca del canal de la derecha formada por terreno sólido (conglomerado arenesco), que desde su origen ha imposibilitado todo tráfico por el canal de la derecha; es pues evidente que el único canal practicable ha sido siempre el de la izquierda siendo este por consiguiente el limítrofe y por la misma razón perteneciendo la isleta al territorio mexicano. Como se vé por el plano que acompaño, el cambio que ha sufrido el cauce hasta la fecha se reduce á haberse ampliado el canal de la izquierda en la bifurcación, haciendo esto mas marcada la concavidad del dique en esa parte y comprobándose aun mas con este hecho la doctrina asentada. Los sondeos practicados resultaron inútiles y los habria omitido si desde luego me hubiera apercibido de la existencia de la rompiente; pero el orden y dirección en que llevé el levantamiento hicieron que no llegase á dicha rompiente sino despues de hecho el sondeo de las secciones marcadas en el plano. En la isleta de Morteritos, es todavia mas marcada la concavidad que afecta el cauce en su dique izquierdo lo que prueba repitiendo los argumentos anteriores que el canal mas profundo fué siempre el izquierdo. Si se comparan los planos primitivos con el que acompaño se verá que el cambio habido consiste en haberse producido un atierre hacia la derecha, en cantidad tal que el canal central que formaba dos isletas ha desaparecido quedando una sola isla y en que las aguas han roto la extremidad occidental de la isleta, dejando una pequeña parte á la izquierda lo que da al canal de este mismo lado un acceso mucho mas directo. El atierre hacia la derecha del lado convexo y la formación de un nuevo cauce del lado cóncavo viene á comprobar la exactitud del principio consignado. Para fijar el estado actual

se hizo un reconocimiento en el sentido longitudinal, sondeando el canal y determinados los puntos mas profundos; allí se tomaron las secciones transversales. Como se ve por las figuras relativas Nos. 5 y 6, el canal del Sur alcanza á dos metros de profundidad máxima y el del Norte llega á dos metros noventa centímetros sin tener ademas banco ninguno que interrumpa ó entorpezca la navegacion, pues por el contrario es mas uniforme en su profundidad que el de la derecha.—Lo expuesto manifiesta de la manera mas clara que las dos isletas á que me he referido, ocupan la orilla derecha del canal mas profundo del rio en su estado actual y que han debido encontrarse en iguales condiciones en la época del trazo de los límites, segun la ciencia y la experiencia lo demuestran. Hasta aquí la parte técnica; veamos ahora lo que la tradicion y el uso nos manifiestan á este respecto. Antes del trazo de la linea divisoria se usaba indistintamente de las islas por los habitantes de ambas márgenes del rio: los de la derecha hacian un uso mas frecuente porque el acceso les era mas facil por la circunstancia de secarse en el estiage y ser mucho menos profundo en las altas aguas el canal que tenian que atravesar á pié enjuto, en el primer caso y pocas veces teniendo que valerse de una embarcacion en el segundo. Despues de trazados los límites siguió haciéndose uso exclusivamente de las dos islas por los C. C. Mexicanos. En la isla del Sabinito no ha habido hasta la fecha ni conatos de que se pretendiera interrumpir esa práctica; en la de Morteritos sí han intentado los vecinos del lado americano pasar á la isleta á tomar leña, pero esto ha sido objeto de reclamacion inmediata dando por resultado que el abuso se corrigiera casi por completo, pues solamente durante la noche y furtivamente han vuelto á repetirse estos casos; por el contrario, en las dos islas hay labores sembradas por los rancheros del lado mexicano sin que este uso y quieta posesion sean discutidos por persona alguna; todos ellos tuvieron conocimiento de mi mision, me acompañaron en mis operaciones y se manifestaron verdaderamente admirados de que el Gobierno hubiera creido necesario dilucidar de parte de quien está el derecho á las isletas cuando esto no ha sido nunca motivo de discusion al menos en la localidad misma. Hay la particularidad de que ambas isletas son baldios y que á pesar de no conocerse propiedad de parte de ninguno, por acuerdo tácito ó previo se respeta la siembra del uno, limitándose los otros á tomar leña ó madera para fustes, cuya industria es la principal en San Pedro.—Es verdaderamente satisfactorio poder citar estos hechos que son la rectificacion mas terminante de mis deducciones y acaban de poner en claro la

cuestion que se trata de resolver.—Lo que por acuerdo del Presidente de la República tengo la honra de transcribir á V. para su conocimiento y como resultado de su oficio relativo, fecha 11 de Julio del año próximo pasado—Libertad y Constitucion, México, Abril 19 de 1880—(firmado) M. Fernandez O. M.—Al Secretario de Relaciones.—Presente.”

Es copia.

Washington, Junio 12 de 1884.

CAYETANO ROMERO,
Srio.

[Inclosure 6. a]

Secretaría de Estado y del Despacho de Relaciones Exteriores.”

El Oficial Mayor, Encargado de la Secretaría de Fomento me dice lo siguiente:—“El C. Ignacio Garfias 11 de Julio del año proximo pasado.”

Lo que tengo la honra de trasladar á V. para su conocimiento y como resultado de su oficio de 8 de 1879, manifestándole que en vista del informe científico del ingeniero Garfias, inserto en esta comunicacion y del que emitió el Consul de México en Rio Grande City, el cual tuve el honor de acompañar á V. con mi oficio de 7 de Febrero último, las isletas del “Sabinito” y “Morteritos” situadas cerca de Roma, Texas, pertenecen en su totalidad al territorio de la República—Libertad y Constitucion—México, 26 de Abril de 1880—(firmado)—Ruelas—Al Secretario de Estado y del Despacho de Hacienda.”

Es copia.

Washington, D. C., Junio 12 de 1884.

CAYETANO ROMERO,
Srio.

[Inclosure 7.]

“Un sello que dice “Secretaría de Estado y del Despacho de Hacienda y Crédito Público.”

En vista del contenido de la comunicacion de V. de 26 de Abril próximo pasado en la que transcribe la que le dirigió la Secretaría de Fomento, insertando el informe rendido por el ingeniero I. Garfias relativo á una isleta que se encuentra en el Rio Bravo, frente á Roma, Texas; el Presidente de la República se ha servido acordar que se establezca en dicha isleta una Seccion compuesta de dos celadores de la de Camargo con objeto de impedir el contrabando que por allí se electúa.—Lo que tengo la honra de com-

[^a Inclosure 5, a sketch, is omitted.—Agent's note.]

unicar á V. para su conocimiento como resultado de su expresada comunicacion—Libertad y Constitucion—México Junio 10 de 1884.—(firmado); Toño—Al Secretario de Relaciones Exteriores." Presente."

Es copia,

Washington, D. C. Junio 12 de 1884.

CAYETANO ROMERO,

Srio.

[Firmado]

Un sello que dice: República Mexicana. Gobierno del Estado de Tamaulipas, Seccion 2ª. Transcrito telégrama fecha 23 del presente acompañando copia de constancias recibidas de la autoridad de Ciudad Mier con motivo de la invasion de terreno de México por ciudadanos americanos, suplicando se dicten las medidas necesarias para evitar tan flagrante violacion de los tratados.

Con fecha 23 del que rige dije á U.d. por la vía telegráfica lo que sigue: "Tejanos encabezados por W. W. Bohrman y O. W. Brewerton invadieron y se posesionaron de la Isla de Morteritos en el Río Bravo, despojando y expeliendo á ciudadanos mexicanos que la poseian, vecinos de la ciudad de Mier, dicha Isla pertenece al territorio de México, porque quedó á la derecha del Brazo mayor y canal mas profundo del Río al fijarse los límites de las dos Naciones. Sírvasse U.d. dar conocimiento de lo ocurrido al Sr. Presidente para que dicte las providencias necesarias. Por correo remito detallados informes."

Y en cumplimiento de lo ofrecido en el anterior mensaje, tengo la honra de enviarle copia de todas las constancias recibidas de la autoridad de ciudad Mier con objeto de que dando cuenta con ellas al Presidente de la República se dicten las medidas que sean de su resorte á fin de impedir esta invasion del Territorio Nacional con flagrante violacion de los tratados.

Libertad y Constitucion.

Ciudad Victoria, Febrero 23 de 1884.

(Firmado)

JUAN GÓJAN.

"

MARIANO A. LLORENTE, *Srio.*

Al Secretario de Relaciones,
México.

Es copia,

Washington, D. C., Junio 12 de 1884.

CAYETANO ROMERO,

Srio.

[Inclosure 9.]

Un sello que dice: Secretaría del Gobierno de Tamaulipas. Copia.

Hay un sello en tinta azul que dice: Presidencia del R. Ayuntamiento—Ciudad Mier—Como se impondrá el Gobierno por el expediente que en copia tengo el honor de acompañar, una partida como de cincuenta hombres procedentes del Estado de Texas y encabezados por W. W. Bohrman y O. W. Brewerton se posesionaron el día 20 de Enero próximo pasado de la Isla de Morteritos en el Rio Bravo del Norte, Isla poseida por sus dueños, vecinos de esta, y perteneciente al territorio de México por haber quedado á la derecha del Brazo mayor y canal mas profundo del Rio al fijarse los límites de las dos Naciones por los tratados de 1848 y de 1854 que establecen como línea divisoria entre las dos Repúblicas, hasta la paralela del 31° 47' de latitud Norte, el canal mas profundo del Rio donde este tuviera mas de un canal, como lo tenía en aquel punto. Los invasores al tomar posesion de dicha isla ahuyentaron con amenazas á los dueños que se encontraban á la sazón sembrando el terreno: cortaron y extrajeron maderas, senderearon y midieron la Isla, destruyendo las cercas y construcciones que allí había, hechas por dichos dueños vecinos de esta. Un cambio reciente operado en el canal del Rio por las crecientes ha dado lugar á este suceso porque debido á ese cambio del cauce la Isla de Morteritos que á la fecha en que por los tratados de límites quedó á la derecha del Brazo mayor y canal mas profundo del Rio Grande, ahora ha quedado á la izquierda de estos. Del suceso dió parte á esta autoridad política Don Manuel Garza Peña, vecino de esta y uno de los dueños de la Isla que fueron ahuyentados de allí por los que la invadieron. En el acto levanté informacion sobre la situacion de dicha Isla de Morteritos, resultando de ella que por las declaraciones de Don Francisco Flores Gonzalez, Coronel de Caballería en Comision, natural y vecino de esta, de setenta y ocho años de edad, Don Anastasio Barrera, propietario y vecino, de edad de sesenta y ocho años, Don Juan Sabas Flores, propietario, natural y vecino de esta, de setenta años, Don Pedro Barrera, propietario, vecino de esta, de cincuenta y un años, Don José Nazario Rodriguez, propietario, natural y vecino de esta, de sesenta años y Don José María Garza Peña, propietario, natural y vecino de esta, de cincuenta y dos años, todos conocidos personalmente del infrascrito Presidente de este R. Ayuntamiento y personas que por su edad, por su

capacidad, por su instruccion, por su probidad, por la independencia de su posicion y por sus antecedentes personales han merecido siempre fé y crédito, no teniendo interés directo ni indirecto en dicha Isla de Morteritos; resultando repito por las declaraciones de estos individuos “que siempre ha pertenecido dicha Isla á México y á la jurisdiccion de Mier, poseyéndola en propiedad los herederos de Don Francisco Garcia uno de los cuales es el referido Don Manuel Garza Peña, que aunque ultimamente ha cambiado el canal mas profundo del Rio, antes de ahora el brazo mayor del mismo y su canal mas profundo estaba en el lado de Texas, tanto que por él vieron que navegaban los vapores durante la guerra con los Estados Unidos y mucho tiempo despues.” En vista de estas declaraciones y porque ademas es notorio que dicha Isla siempre se ha reconocido por todos, autoridades y moradores de ambas márgenes del Rio, como territorio mexicano y parte integrante de la municipalidad de Mier del Estado de Tamaulipas, á cuya municipalidad y Estado ha contribuido siempre con las cargas é impuestos en ellos establecidos, como lo acreditan los dueños con sus recibos, ordené al Encargado de Justicia de la demarcacion de Guardado, en que esta dicha Isla, practicase la averiguacion de los hechos expuestos por Don Manuel Garza Peña, segun verá Ud. por la copia marcada con el N°. 1. Dicho Encargado informo la que consta en la copia tambien acompañada con el N°. 2. En vista de ella, no habiendo en el Condado de Starr del Estado de Texas de donde proceden los invasores siendo W. W. Bohrman, Juez de Paz de la Villa de Roma y O. W. Brewerton, Agrimensor de aquel Condado y los que los acompañaban vecinos del mismo, me diriji al Juez de dicho Condado de Starr con lo que en la copia que va marcada con el N°. 3 consta, recibiendo en contestacion el oficio de dicho Juez que con su traduccion acompañó tambien en copia bajo el N°. 4; para que instruido el Gobierno del suceso que es de trascendencia para la integridad del Territorio si queda como un precedente desatendido por las autoridades para que se sucedan otros de igual género, y en vista de los documentos acompañados tome las medidas del caso, dirijiéndose al Supremo Gobierno, me apresuro á informar lo que en esta comunicacion y copias acompañadas se lee, esperando se me comunique la resolucion que recaiga sobre el particular, advirtiéndole que los invasores han acudido á los tribunales de Texas pidiendo se declare que el terreno de dicha Isla de Morteritos

ha sido adquirido por derecho de accesion por los dueños de las heredades de la margen izquierda del Rio Bravo del Norte.

Libertad y Constitucion.

Ciudad Mier, Febrero 15 de 1884.

C. G. GARCIA

AMBROSIO GONZALEZ, *Srio.*

Ciudadano Gobernador del Estado

Ciudad Victoria.

Es copia, Washington, D. C., Junio 12 de 1884.

CAYETANO ROMERO,

Srio.

[Inclosure 10.]

DOCUMENTO No. I.

Un sello que dice: Presidencia del Republicano Ayuntamiento de Mier.

Don Manuel Garza Peña se ha presentado dando parte de que una reunion como de cincuenta individuos vecinos y procedentes de Texas encabezados por el Juez de Paz de Roma, W. W. Bohrman, y por el Agrimensor O. W. Brewerton, invadieron el dia 20 del actual el territorio mexicano y practicaron actos de despojo en la Isla de Morteritos que es territorio de México comprendido en esa Encargatura de Justicia y que pertenece á individuos vecinos de esta municipalidad. Añade el quejoso que rompieron cercas, extrajeron maderas y amenazaron á los sirvientes de los dueños que allí se encontraban, con vias de hecho si permanecian en aquella Isla. Como este acontecimiento de ser cierto, es de tal gravedad que se requiere se proceda con la mayor eficacia y celo por las autoridades á su averiguacion y pronto remedio, en el acto mismo que reciba Ud. esta comunicacion procederá Ud. á averiguar estos hechos y dará Ud. cuenta por escrito inmediatamente para lo que haya lugar; advirtiéndole que el quejoso manifiesta que los Sres Don Felipe Muñoz, Don Francisco Guerra, Don Anastasio Medina, y Don José María Gonzalez presenciaron la invasion y Don Cipriano Perez, José María Gonzalez Matias Guzman y Merced Garcia la destruccion de cercas y extraccion y cortes de maderas y que entre los individuos se conocieron á los Sres Antonio Escobar, Prudencio Escobar, Jesus Saenz, Ramon Escobar, Santos Escobar,

Tomas Saens, Juan Saens, Eugenio Ibañez, Timoteo Garza, Carlos Garza, y Justo Salinas, todos avecindados en Texas, á excepcion del Sr. Eugenio Ibañez que es vecino de esta ciudad.

Libertad y Constitucion

C. Mier, Enero 29 de 1884

C. G. GARCIA, (rúbrica)

AMBROSIO GONZALEZ, *Srio.* (rúbrica)

C. Encargado de Justicia de Guardado de Arriba. Es copia de su original que certifico

C. G. GARCIA

AMBROSIO GONZALEZ *Srio.*

Un sello en tinta azul que dice: Presidencia del R. Ayuntamiento Ciudad Mier.

Es copia, Washington, D. C., Junio 12 de 1884.

CAYETANO ROMERO,
Srio.

[Inclosure 11.]

DOCUMENTO No. 2.

Municipalidad de Ciudad Mier—Encargatura de Guardado de Arriba Republicano Ayuntamiento.

Recibí su comunicacion donde se me dá orden para que proceda á averiguar hechos sobre la Isla de Morteritos y en cumplimiento de su orden de fecha de hoy pasé al R. de Morteritos á hacer las averiguaciones que fuesen correspondientes y procedé de la manera siguiente: mandando que se reunieran los individuos que presenciaron la destruccion de maderas en la Isla y se presentaron ante mí; y certifican los C. C. Cipriano Perez, José María Gonzalez, Matias Guzman y Merced Garcia, en seguida pasé en compañía de dos de los nombrados y el interesado á la Isla para mas satisfaccion de los hechos y he encontrado destrozos de maderas de todas clases sin las que esos individuos pudieron llevarse porque se vé hasta donde hicieron cuartones destruyendo corrales y rotando la cerca en cuatro partes, la primera tiene cuatro pasos, la segunda once, la tercera tres y la cuarta cinco, de lo cual doy fé. En seguida pasé al Rancho Nuevo en compañía de uno y del interesado á informarme de los Sres Felipe Muñoz, Francisco Guerra y Anastasio Medina y una vez informado de ellos y encon-

tradolos que estan prontos á certificar la invasion lo cual aviso á Ud para su gobierno y fines consiguientes.

Libertad y Constitucion

Guardado de Arriba, Enero 29 de 1884.

MANUEL G. GARCIA

Es copia del original que certifico

C. G. GARCIA

AMBROSIO GONZALEZ *Srio.*

Hay un sello en tinta azul que dice: Presidencia del R. Ayuntamiento.

Ciudad Mier.

Es copia,

Washington, D. C., Junio 12 de 1884.

CAYETANO ROMERO,

Srio.

[Inclosure 12.]

Con el oficio de Ud de 23 de Febrero último, se recibieron en esta Secretaría copias de las constancias referentes á la invasion por individuos de Texas de la Isla llamada "Morteros" perteneciente al territorio nacional.

A fin de que esta Secretaría pueda dictar las providencias que correspondan, suplico á Ud se sirva informarme con la menor demora posible si el cambio de las corrientes del Rio Bravo, debido al cual ha quedado la citada Isla en la margen izquierda del brazo mayor y canal mas profundo de dicho rio, se ha operado de una manera lenta con el trascurso del tiempo, ó si ese cambio ha sido brusco y violento determinando en poco tiempo la situacion actual de la isla repetida.

Se servirá Ud para la mayor ilustracion del punto de que se trata, acompañar á los informes requeridos un croquis en que se señale con la precision debida la ubicacion actual de la Isla "Morteros" y la anterior.

Libertad y Constitucion

México, Marzo 12 de 1884.

(Firmado) FERNANDEZ.

Al Gobernador del Estado de Tamaulipas. Ciudad Victoria.

Es copia. Washington, D. C., Junio 12 de 1884.

CAYETANO ROMERO,

Srio.

[Inclosure 13.]

Un sello que dice: Secretaría de Estado y del Despacho de Hacienda y Crédito Público, México.

En telégrama fecha de ayer dice á esta Secretaría el Administrador de la Aduana de Mier lo que sigue:

“Háseme denunciado la asistencia de un contrabando de caballos y de ganados extranjeros en terrenos de la isla de Morteritos; pero como esta encuéntrase en el Rio Bravo, consulté á Presidente Ayuntamiento si era terreno mexicano, y manifestóme que siempre ha sido considerado de esta jurisdiccion; pero que á consecuencia de las últimas crecientes, cambióse el trazo del rio, y ahora encuéntase en litigio en los tribunales americanos la nacionalidad, circunstancia que me ha hecho vacilar en tomar determinacion, suplicando á Ud. decirme que debo hacer, en la inteligencia que hace pocos dias, celadores americanos por órden de su Administrador, aprehendieron un ganado mexicano en estos mismos terrenos; y exigieron fianza al dueño hasta la resolucion de los tribunales. Pronto espero por esta vía su resolucion.”

Téngo la honra de transcribirlo á Ud suplicándole se sirva decirme con la urgencia que el caso exige, si la isla aludida es parte del territorio nacional, y ejercen jurisdiccion en ella las autoridades mexicanas, para que en vista de este informe la Secretaría de mi cargo pueda dictar las disposiciones convenientes respecto del servicio fiscal.

Libertad y Constitucion

México, 29 de Febrero de 1884

(Firmado)

PEÑA

Al Secretario de Relaciones
Presente.

Es copia.

Washington, D. C., Junio 12 de 1884

CAYETANO ROMERO

[Inclosure 14.]

Srio

El Gobernador del Estado del Tamaulipas comunicó á esta Secretaría en oficio de 23 de Febrero último, que varios individuos de Texas, encabezados por W. W. Bohrman y O. W. Brewerton invadieron la isla “Morteritos” en el rio Bravo y tomaron posesion de ella, desalojando de la misma á los ciudadanos mexicanos que la poseian, los cuales eran vecinos de ciudad Mier. El informe rendido por el Ayuntamiento de dicha ciudad de las constancias á él anexas que acompaña en copia al

Gobernador, aparece que la invasion tuvo lugar el 20 de Enero de este año; que la isla que estaba habitada por vecinos de Mier siempre se ha considerado como parte integrante del territorio mexicano por haber quedado á la derecha del brazo mayor y canal mas profundo del Bravo al fijarse los límites de las dos naciones por los tratados de 1848 y 1854, que establecen como línea divisoria, hasta la paralela del 31° 47' de latitud Norte, el canal mas profundo del Rio donde este tuviera mas de un canal como lo tenía en ese punto, y que por un cambio reciente operado en el canal á causa de las crecientes del Bravo, la referida isla ha quedado á la izquierda del brazo mayor y canal mas profundo del mismo rio.

A fin de dictar las providencias correspondientes, esta Secretaría pidió informes al Gobernador de Tamaulipas sobre si el cambio de las corrientes del Rio Bravo, debido al cual ha quedado la citada isla en la margen izquierda del brazo mayor y canal mas profundo de dicho rio, se ha operado de una manera lenta con el trascurso del tiempo, ó si ese cambio ha sido brusco y violento, determinando en poco tiempo la situacion actual de la isla repetida. Pedí igualmente á aquel funcionario que para la mayor ilustracion del punto de que se trata, acompañase á sus informes un cróquis en que se señalara con la precision debida la ubicacion actual de la isla y la que tenia anteriormente.

El expresado Gobernador me ha contestado en oficio de 7 del corriente, transcribiéndome una comunicacion que le dirigió el Presidente del Ayuntamiento del Ciudad Mier, en la cual manifiesta que no es posible cumplir lo dispuesto por esta Secretaría por falta de un ingeniero que levante el cróquis requerido.

En vista de la importancia de este asunto y con objeto dedictar las providencias que correspondan, suplico á Ud se sirva nombrar un ingeniero que pasando en persona á reconocer el punto disputado, pueda presentar á esta Secretaría los informes y cróquis que se tenian pedidos al Gobernador de Tamaulipas.

Libertad y Constitucion

México, Mayo 21 de 1884.

(Firmado)

FERNANDEZ

Al Secretario de Fomento.

Es copia.

Washington, D. C. Junio 12 de 1884

CAYETANO ROMERO

Srio.

[Inclosure 15.]

Telégrama

Depositado en Mier el 17 de Mayo de 1884. Recibido en México el 18.

SECRETARIO DE RELACIONES:

Hoy ha estado en este Consulado el Mayor Offney, Comandante del Fuerte Ringgold en Rio Grande City, Tex., á hacerme una visita de corte, para participarme que ha recibido orden del Gobierno de Washington de tomar posesion de las islas Morteritos por considerarla el Supremo Gobierno de los Estados Unidos como de su propiedad, territorio de este pais—El Cónsul.

JOSÉ M. LUIÑONES

Es copia

Washington, D. C. Junio 12 de 1884.

CAYETANO ROMERO *Srio.*

[Inclosure 16.]

Un sello que dice: Secretaría de Estado y del Despacho de Relaciones Exteriores. México. Departamento político. Seccion de América N°. 37—Isla Morteritos.

MÉXICO, *Mayo 23 de 1884.*

He recibido el telégrama de Ud. de 17 del actual referente á la visita que le hizo el Comandante del Fuerte Ringgold para notificarle la orden que ha recibido del Gobierno de Washington para tomar posesion de la Isla “Morteritos.”

En respuesta manifiesto á Ud. que ya se dan á nuestra Legación en Washington, las instrucciones correspondientes respecto del asunto.

Renuevo á Ud mi atenta consideración.

(Firmado)

FERNANDEZ.

Sr. Cónsul de México en Roma, Texas.

Son copias. México, Mayo 26 de 1884.

(Firmado)

JOSÉ FERNANDEZ.

Es copia. Washington, Junio 12 de 1884.

CAYETANO ROMERO.

[Inclosure 17.]

Indice de los documentos que la Legación de México en Washington acompaña al Departamento de Estado de los Estados Unidos de América, con la nota de esta fecha, respecto de las islas de Morteritos y Sabinitos en el Rio Bravo.

CONTENIDO.

Nº Fecha

- 1—1879, Diciembre 26—Informe del Consul de México en Rio Grande City, Texas, á la Secretaría de Relaciones Exteriores, sobre la situación, extension y pertenencia de la isla Morteritos.
- 2—1880, Febrero 4—La Secretaría de Fomento transcribe á la de Relaciones Exteriores un informe del Gefe de la Seccion aduanal de Camargo sobre el mismo asunto.
- 3—1874, Marzo 9—Transaccion en el litigio entablado entre los poseedores de la Isla Morteritos y los colindantes de ella verificada ante el alcalde 3º Constitucional de Mier:
- 4—1880—Abril 9—Informe remitido á la Secretaría de Fomento por el Ingeniero Don Ignacio Garfias, demostrando que la isla Morteritos pertenece á México.
- 5— Copia del cróquis anexo al informe precedente.
- 6— “ Abril 26 Oficio de la Secretaría de Relaciones á la de Hacienda transmitiendo el informe anterior y manifestando que tanto de este como del emitido por el Consul de México en Rio Grande City, Texas, aparece que las islas Morteritos y Sabinitos pertenecen á México.
- 7—1880—Junio 10—Oficio de la Secretaría de Hacienda á la de Relaciones Exteriores avisando que se ha mandado establecer una Seccion de resguardo en la isla de Morteritos que impida el comprobante por ese lado.
- 8—1884—Febrero 23—Oficio del Gobernador del Estado de Tamaulipas á la Secretaría de Relaciones Exteriores avisando que por el telégrafo participó la invasion y ocupacion de Morteritos por ciudadanos de los Estados Unidos, quienes expulsaron á los mexicanos dueños de lá isla.
- 9— “ —Febrero 15—Oficio del Presidente del Ayuntamiento de Mier al Gobernador de Tamaulipas en que da el parte anterior.
- 10— “ —Enero 29—Oficio del Presidente del Ayuntamiento de Mier al encargado de la justicia en Guardado pidiéndole informes sobre este asunto.

- 11—1884—Enero 29—El Encargado de la justicia en Guardado avisa al Presidente del Ayuntamiento de Mier haber visitado personalmente la isla Morteritos con algunos vecinos y visto los destrozos cometidos por los ciudadanos de los Estados Unidos que la invadieron.
- 12— “ —Marzo 12—Oficio de la Secretaría de Relaciones Exteriores al Gobernador del Estado de Tamaulipas, encargándole averigüe si el cambio de cauce del Rio Grande se verificó de una manera lenta y con el transcurso del tiempo, ó si fué brusco y violento, determinando en poco tiempo la situacion actual de la isla referida.
- 13—1884—Febrero 29—Oficio de la Secretaría de Hacienda á la de Relaciones Exteriores, transcribiendo un telégrama del Administrador de la Aduana Mier, sobre si la isla Morteritos pertenece á México para perseguir unos efectos introducidos de contrabando que se hallaban en dicha isla.
- 14— “ —Mayo 21—Oficio de la Secretaría de Relaciones á la de Fomento pidiendo envíe desde luego un ingeniero á Morteritos que examine los cambios nuevamente ocasionados en el Rio Grande con referencia á la isla Morteritos.
- 15— “ —Mayo 17—Telégrama del Consul de México en Roma, Texas, á la Secretaría de Relaciones Exteriores, avisando la notificación que le hizo el Comandante del Fuerte Ringgold de tener orden de su gobierno para ocupar Morteritos por pertenecer á los Estados Unidos.
- 16—1884—Mayo 23—Oficio de la Secretaría de Relaciones Exteriores al Consul arriba citado acusando recibo de su telégrama y participándole que ya se han dado á la Legacion en Washington las instrucciones correspondientes.

Washington, D. C., Junio 12 de 1884.

CAYETANO ROMERO.

Srio.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES.

WASHINGTON, *June 12, 1884.*

Mr. SECRETARY:

Referring to the notes which I addressed to your Department on the 13th March and 24th May last, and on the 2nd instant, in reference to the Islands of Morteritos and Sabinos, in the Rio Grande, of which Mexico has been in possession for the reason that she considered then as an integral part of her territory, I have the honor to inform you that I have this day received from the Depart-

ment of Foreign Relations of Mexico, various documents showing the rights of Mexico to the said Islands. I enclose a copy of the principal ones of these documents and of a drawing which was sent as an enclosure to the report of Engineer Garfias of April 19, 1880, together with an index showing their dates and giving a brief outline of their contents.

It appears from the said documents that the aforesaid Islands were to remain on the right of the deepest channel of the Rio Grande, when the demarkation of limits was made according to the treaties of February 2, 1848, and December 30, 1853, belonging consequently to Mexico according to the report of Engineer Ignacio Garfias, (enclosure No. 4); that among various changes that took place in the bed of the river owing to freshets in the year 1865, the Island of Morteritos became united to another which was quite near it. The new Island remained on the right of the deepest channel of the river; that Mexicans were the owners of the Island contiguous to the right bank and citizens of the United States the owners of the other, but that when both were united, all the parties interested made an agreement on the 9th of March, 1874, before the court at Mier, whereby Mexicans remained in possession of the whole Island; that the Island has been in the possession of Mexico since that time, judicial acts being exercised there such as the establishment of a section of vigilance, and grain being sown by Mexican citizens; that another change which took place in the deepest channel of the Rio Grande left the Island of Morteritos on the left side of the channel, and for this reason, on the 20th of January last, several armed persons from Roma, Texas, headed by W. W. Bohorman, the judge at Roma, in Starr County, Texas, invaded the Island of Morteritos, destroyed several enclosures, drove out the Mexican owners, divided their property among themselves; and that a short time before several residents of Roma had appealed to the judicial authorities of Texas, requesting them to declare that the Island belonged to them by accession.

I shall not now stop to speak of the incident relative to private property on the Island of Morteritos, which, as appears from the enclosed document, was declared to belong to Doña Guadalupe Garcia, according to the decision of the Supreme Court of Justice of Mexico, dated October 24, 1836, because in this note I am simply endeavoring to demonstrate its nationality, that is to say, that it forms a part of the territory of Mexico.

Without prejudice to the subsequent transmission to you of the report of the Engineer who has been sent by the Government

of Mexico to the Rio Grande, to make a study of this subject on the spot, together with such other data as I may hereafter receive from my Government, I have the honor to inform you that the Department of Foreign Relations of the United States of Mexico, has informed me, by a note bearing date of the 28th of May last, that "in the enclosed documents there are irrefutable and full data, showing unmistakably the right of eminent domain of Mexico to the Island of Morteritos, among them the survey and the sounding made by our consul at Rio Grande City, the agreement made by the inhabitants of the two countries before the court at Mier with regard to the possession of the land on the Island, the report of Engineer Garfias and the fact that a section of vigilance was established on the Island without any attempt having hitherto been made by the Government of the United States to exercise jurisdiction on that Island or to interfere with that of the Mexican authorities."

In view of these considerations, the Government of Mexico instructs me "to request that of the United States to issue the necessary orders to the end that the free action of the Mexican Authorities on that Island may not be obstructed."

Be pleased to accept, Mr. Secretary, the assurance of my very distinguished consideration.

M. ROMERO.

Hon. FREDERICK T. FRELINGHUYSEN,
etc, etc, etc.

[Inclosure 1.]

[Translation.]

CONSULATE OF THE REPUBLIC AT RIO GRANDE CITY.

Number eight; small Island in the Rio Grande near Roma.

RIO GRANDE CITY, *December 26, 1879.*

Desiring to comply, to the best of my ability, with the instructions which you were pleased to communicate to me by your note number 7, dated the 9th of August last, directing me to prepare a report upon the true situation and other circumstances of an Island in the Rio Grande, which is used as a place of refuge for smugglers, according to the statement of the chief of the customs section of Camargo, I have the honor to inform you that I have been to visit the aforesaid Island, and to measure, myself, the depth of the two branches of the river which form it.

The Island is, indeed, very near to the Town of Roma, opposite to the American Rancheria called Los Saenz on one side, and on the other being opposite to the Mexican ranches called Guardado

and El Morterito, which is about two thousand five hundred metres in length and about two hundred in width, in its broadest part, and owing to its situation, is really very favorable to smuggling operations.

I measured the depth of each channel of the river fourteen times in different places, of its longitudinal extent, and obtained the following results, which show the differences in depth.

Sounding of the northern channel, American side: 1m.16.—1m. 24—1m.47—1m.51—1m.72—1m.78—2m.35.—2m.70.—

Sounding of the channel on the Mexican side.

0m.71—0m.89—0m.96.—1m.05.—1m.32.—1m.40—1m.52.—

This latter channel, according to information, sometimes becomes dry, while the other always has water. From all this it appears that the deeper of the two channels of the Rio Grande, which forms the Island, is the one on the north, and according to the 5th article of the treaty of friendship and limits of 1848, and article one of the treaty of Mesilla, that Island is to be considered as a part of our national territory. As to the history of the Island, I have gathered the following data.

The Rio Grande was formerly divided at the Island into three divisions or channels, one of them being central, and following the original direction of the river, and two being lateral and separated, one towards the north and the other towards the south, after which they again met, leaving between them two strips of land, one of which was considered American and the other as Mexican soil, their owners belonging to the two nationalities.

In the year 1865, there was a large freshet in the Rio Grande, which caused various changes in its current, among which was that the two strips of land, in again becoming united, formed the present Island. I myself have seen marks of the former division of the Island which, was still very apparent, and I have passed through the former channel of the river. When the two parts of the Island became united, their various owners privately agreed to own, in equal parts, that which had recently been formed. They soon disagreed, however, and had recourse to the law, and terminated their dispute by means of the written agreement which was authenticated before the court at Mier.

I had not asked the court at Mier for any information with regard to the truth of this, because I did not know whether such a proceeding on my part would be approved. I think, moreover, that if such a document is necessary, it will be obtained more readily by your Department. I must inform you, in conclusion, that I was accompanied during my examination of the Island by

chief of the customs section of Camargo, and by Don Juan Villareal, a respectable person, who is the Judge of the Civil Register at Camargo, and likewise Judge of the Supreme Court of the State of Tamaulipas, and that we proceeded with the utmost discretion, preferring to make our journey on the Mexican side, although it was thereby rendered longer and more difficult.

I renew to you the assurances of my most respectful consideration.

JOSÉ MA. ALMARÁZ.

To the CITIZEN MINISTER OF FOREIGN RELATIONS, *Mexico*.

A copy.

CAYETANO ROMERO,
Secretary.

WASHINGTON, *June 11, 1884.*

[Inclosure 2.]

[Translation.]

DEPARTMENT OF STATE AND OF THE TREASURY AND PUBLIC
CREDIT.

Section 1st.

Under date of the 18th of January last the Maritime and Frontier Custom House at Matamoros wrote to this Department as follows:—The chief officer of the customs section at Camargo, by a communication numbered 192, and dated the 31st of December last, wrote to this Custom House as follows: I have the honor to inform you that during the month just closing nothing worthy of special remark has occurred in the Section under my charge. Although diligent efforts have been made to punish smugglers, especially in the district lying west of this city, it has not been possible to arrest any of them, because, as I said in my last report, those who convey their goods to the interior via Roma, take a westerly direction from Mier, having abandoned their old route of Arroyo de San Antonio and the Aldamas ranch, and making their exit near Villa de Parras; or they wait until the last part of the month, and then avail themselves of the absence of the dragoons who come to be reviewed. With the consent of the commanding officer of the federal force which is under my control, I ordered that the party should not return this month, hoping that some of the smugglers, who avail themselves of this temporary absence, might thus be captured. Of the result of my

efforts I will inform the Custom House under your charge.—At the request of the Mexican Consul at Rio Grande City, (who desired that we should go together to the little island that is nearly opposite Roma, to which I referred in my communication of June 14th, No. 266,) I went, in company with him, on the 24th instant, for the purpose of making an examination. The said island measures nearly three kilometres from east to west, and about 200 meters in its widest part; the narrowest channel, which is on the Mexican side, is one meter and 52 centimeters deep in its deepest part. We took more than twenty soundings, and found a depth of 71 centimeters, 89–96–105–132 and 152. According to the statements made by the people at Morteritos ranch, which is situated on the right bank of the river, it has but little water, which is not the case in the north channel; and this is understood, because we found in more than twenty soundings, which were taken in its entire length, from the western extremity of the islet to the eastern, the following depths: 1 meter, 16 centimeters, 1.24–1.47–1.57–1.72–1.78–2.35 and 2.70; the difference between the greatest depths in the two channels being 1 meter and 18 centimeters, and that between the smallest depths 45 centimeters. The island is jointly owned by residents of both sides of the river, there being two boats on the Texan side and two on the Mexican side, which are engaged in carrying passengers either to the opposite bank of the river or to the islet, which, as stated in my report which occasioned the examination by the Consul, “favors the operations of smugglers, who can leave Roma, go to the islet, and wait there till the coast is clear.” I have the honor to transmit to you the foregoing, (although your Department has probably received some communication on the subject from the Consul of Mexico at Rio Grande City), in order that, as regards the joint occupation of the island by Mexico and the United States, you may be pleased to adopt such a decision as may be proper, and to inform this Department thereof. Liberty in the Constitution! Mexico, February 4th, 1880.

TORO.

To the Chief Clerk, in charge of the Department of Foreign Relations, Present.

A copy. Washington, June 12th, 1884.

CAYETANO ROMERO, *Sec'y*.

[Inclosure 3.]

[Translation.]

A seal containing the words: 3d Constitutional Court at Mier. Seal No. 3. Second class. Fifty cents. For 1874 and 1875. In the City of Mier, on the ninth day of the month of March, 1874, the citizens Luciano Muñoz, Cesareo de los Santos, Florentino Lopez, Serafio Muñoz, having met together, both in their own behalf and as representatives of their brothers, Simon Treviño in his own behalf, and as the representative of his brothers, Vicente Vela, Wenceslao Martinez, Octaviano Longoria, the three last named representing their wives and Rafael Garcia, some of them being residents of Roma, Texas, and others of this city; also Francisco Canales, representing his wife, Sabás Saldaña in his own behalf and representing Jorge Garza, his brother Juan de la Garza for his wife, and representing the children of the late Antonio Garza and Rafael Pena Garza as representatives of their mother Dona Plácida Garza, all of this place, for the purpose of deliberating with reference to a compromise for the final settlement of the dispute which had grown out of freshets in the river near the island of Morteritos, which adjoins land belonging to the former; these proposed to settle the difficulties, so far as they were concerned, if a piece of land was sold to them, whose dimensions and price were to be fixed by agreement, and when the said proposal had been accepted by the heirs of the island of Morteritos, they agreed that the latter should sell to the former a piece of land that, being adjacent to that of the latter, and to the right side of Morteritos, should be, both on the river's bank and on the side which borders upon land belonging to the Peñas, one hundred and thirty-five paces in length, and of the following width: to extend from the place where the river touches Brazo de Texas to where it touches the land belonging to Peñas on the line given by both parties, for the sum of eighty dollars, by means of a bill of sale which they would give extra-judicially for all legal effects, thus terminating the dispute wholly and forever; that the permanent lines in the present agreement shall be fixed by common consent by both the parties interested, drawing them with a line of stakes in order to avoid disputes in future; that if any lawsuit or misunderstanding shall arise hereafter, the Messrs. Muñoz and associates shall help in proportion to the portion of freshets received by them, to defray the expenses and costs occasioned to the Messrs. Peñas; that after the present agreement has been signed by all the parties, it shall be judicially authenticated and placed on file, and

for its fulfilment they pledge their property, both present and future. And in testimony that they will so fulfill it, they cause this document to be drawn up in the place and at the time aforementioned, signing it together with Messrs. Ambrosio Gonzales and Porfirio Zamora, as assisting witnesses.

LUSIANO MUNOZ, (flourish)

Representing my father Cesario de los Santos.

NARCISO DE LOS SANTOS (flourish)

FLORENTINE LOPEZ (flourish)

for himself and as representing his brothers.

SIMON TREVINO (flourish)

VICENTE VELA (flourish)

OCTAVIANO LONGORIA (flourish)

WENCESLAO MARTINEZ (flourish)

FRANCISCO CANALES (flourish)

SABÁS SALDAÑA (flourish)

MANUEL GARZA (flourish)

RAFAEL P. GARZA (flourish)

P. ZAMORA (flourish)

AMBROSIO GONZALES (flourish)

Third Constitutional Court of Mier, March 14th, 1874.

On this day appeared before this Court the Citizens Francisco Canales and Octaviano Longoria, both in their own behalf, and as representatives of their co-heirs who signed the foregoing agreement, requesting that in order that the said agreement might have greater force and validity, it might be authenticated by this Court and filed among its other public documents. And I, the Judge, complying with the request of the aforesaid Messrs. Longoria and Canales, lend the sanction of my authority and judicial decree to the end that the foregoing agreement be considered as a public instrument, and I order the original thereof to be filed among the public instruments as requested by the parties, and that a copy or copies thereof (as they may desire) be furnished to them. And in testimony hereof I issue this document. Refugio Garza, 3d Constitutional Alcade, pro tem., of this city, signing it with my assisting witnesses, with whom I act, according to law. I certify. Cástulo Perez, (flourish) assisting. Ramon Hinajosa (flourish), Charges, not including cost of paper, four dollars. (Flourish). A copy of the original which is in the city of Mier, as I certify on this 24th day of March, 1880.

Tomas Ramirez Ramirez, 3d Constitutional Alcalde pro tem. of this city and the assisting witnesses, I certify. Tomas R. Ramirez (flourish), assisting. Adolf Garcia (flourish), assisting. Ramon Hinojosa, (flourish).

A copy.

CAYETANO ROMERO, *Sec'y.*

WASHINGTON, *June 12, 1884.*

[Inclosure No. 4.]

[Translation.]

MEXICAN REPUBLIC.

MINISTRY OF PUBLIC WORKS, COLONIZATION, INDUSTRY AND
COMMERCE.

Mexico, Section 3d, No. 2782.

Mr. Ignacio Garfias writes to this Department under date of the 16th instant:

“On my return to this Capital after having acquitted myself of the commissions which you have been pleased to honor me with, it is now my duty to report to you the result of each of them.

Beginning in chronological order, I occupied myself with the reconnoitering of the Rio Bravo del Norte, in that part of it which is occupied by the islands near Roma. According to the tenor of the communication of your Department and of the articles of the treaty of Guadalupe signed with the Government of the United States of the North on the 2d of February, 1848, relative thereto, the point to be ascertained is, whether, in conformity with this treaty, the islands are national territory or belong to the neighboring country.

The text of the fifth article of the treaty is: “The dividing line between the two Republics shall begin, &c. . . . it shall run in the middle of said river, following the deepest part of the channel; where there is more than one channel,” &c. . . . “The dividing line that is established by this article, shall be religiously respected by each one of the two Republics and no variation shall ever be made to it, &c.”

In view of these clear and definite clauses, it was necessary to determine not only the actual state of the channels but also the state in which they were, according to the system of the river and the maps relative thereto, at the time of the drawing of the limits.

It is not, in fact, the line as it exists at any period that the boundary commission recognized as the limit; in view of the constant necessity of applying the articles of the treaty to all the cases that may require them, they have been led to create a doctrine that may be expressed in the following words:

The original nationality (that which existed at the time of the drawing of the limits) is conceded to all portions of land that have, owing to some variation in the basin of the river, passed subsequently from one bank to the other of the river, and only in cases of criminal jurisdiction is it admitted that the authorities of each country can extend their action to those portions of territory that have remained on the bank that belongs to them,—Although the nationality of those lands may be different—for the apprehension of delinquents of their respective countries; it has been observed, in fact, in the first cases that occurred after the change of embankment that the original nationality being recognized and not meeting any natural obstacle, criminals would take refuge there, pending the formal request of extradition to arrest them. This interfered with the prompt course of the tribunals, and to obviate these difficulties, the doctrine was established which remains in force on all the frontier and is religiously observed by all the authorities of both sides of the river. There are many cases that prove the strict observation of this tacit convention. Among others I shall mention one of the most notable. When the American military encampment of Santa Maria was established on the bank of the river, a change in the basin took place on the right side leaving on the left, a considerable extent of land; though between this land and the encampment there has been since then no obstacle that would interfere with a free access, and it has formed, since then, an integral portion of American territory precisely in one of its encampments; as this is simply a fact caused by a case of *vis major*, the right of Mexico has continued to be respected, and the owners of this land continue to pay their taxes in Mexico, and are subject in everything to our laws. Many other similar cases are met with on both banks of the river, and in all of them the same practice is observed, at least so far as the State of Tamaulipas is concerned. In view of these facts and conformably to what the treaty establishes in this respect, that no variation shall be recognized, but that the limits shall remain *always* the one marked out by the river at the time of the drawing of the line, I thought it necessary not to limit myself to deter-

mining the actual state of the basin, but to deduce the locality of the deepest channel at the time the plans of the dividing line were drawn, taking as data the form of the river as it is found in those plans, and studying and determining its character at different points from its mouth to the one in question. As is known in every river the channel is formed on the concave side of the curves, the accretions of soil being formed on the convex side; in the different rivers that I have studied, the surveys of which may be consulted in the archives of your Department, there is not a single case that is not conformable to this rule; it is so generally recognized in all the localities where the proximity of a river allows this observation to be made even by its most ignorant inhabitants, that they, in their characteristic language, use an aphorism as exact as it is expressive: ("Huye de la playa y cargate al barranco")—Avoid the playa and load up at the barranco. They call, in fact, *playa* those banks formed by the deposit which the waters abandon at low tide and *barranco* the accessible part of the dikes that the shock of the currents is constantly undermining, determining there the greatest depth. Now then, as well by observation as by the commonest rules of natural philosophy, one knows that the shock of the currents is on the concave part of the curves: the waters, in fact, following the direction affected by the dikes that hold them, when this direction is interrupted by a curve, what happens in reality is, that any obstacle interposing itself so as to prevent the waters from following the line drawn for them by the basin, they do not change their direction unless obliged by that obstacle, the shock between them producing the consequent breakings of the ground: on the contrary, the waters, following the direction of the tangent of the curves, remain in relative tranquility all along the convex side, the deposit of all the bodies of greater density dragged along by the current being produced there. In few cases facts and theory conform as well; it can be established as indisputable that the channel of a river is always on the concave side of the curves and one can deduce from this principle what the deepest channel was at the time of the drawing of the limits, taking as data the form given to the river in the respective plans.

Before the bifurcation of the river, that formed the little island of Sabinitas, the convexity was on the Mexican side; this detail leaves no doubt respecting the place of the deepest channel at the time of the bifurcation of the river, there is, however, the

circumstance that all the great curve in which the little island is comprised and the American town called Roma, holds the concave part on the left side and the convex on the right, leaving the coast on Mexican soil, it is clear that the channel must have remained all along the left bank leaving the little island on the right. In corroboration of that which theory forces us to deduce there is the fact that there exist breakers at the mouth of the channel on the right formed by solid ground (pebbly conglomeration) that since its origin has prevented all traffic through the right channel; it is therefore evident that the only practicable channel has always been the one on the left, this being consequently the frontier one, and for the same reason the little island, belongs to Mexican territory. As is seen by the plan that I annex, the change that has occurred in the basin up to date is reduced to the enlargement of the channel on the left in the bifurcation, this having marked more prominently the dike in that part and verifying still more with this fact the doctrine affirmed. The soundings that were made had no result, and I would have omitted them if, at the time, I could have foreseen the existence of the breakers; however, the order and direction in which the plans were drawn were such that the said breakers would not be reached till after the taking of the soundings of the sections marked in the plan.

In the little island of Morteritos, nevertheless, the concavity affected by the basin is more marked in the left dike, which proves, refuting anterior arguments, that the deepest channel has always been the left one. If one compares the original plans with the one I forward, it will be seen that the change that took place consisted in having produced an accumulation of earth towards the right in such quantity that the central channel that formed two little islands has disappeared leaving a single island and in which the waters have broken the western extremity of the islet, leaving a small part to the left which gives to the channel of the same side a much more direct access.

The ground accumulation towards the right of the convex side and the formation of a new basin on the concave side, proves the exactness of the principle established. To determine the actual state, a survey was made in a longitudinal direction, sounding the channel and determining the deepest points; there were taken the transversal sections. As is seen by figures No 5 and 6, relating thereto, the South Channel attains a maximum depth of two

meters and the North Channel reaches two meters and ninety centimeters without having, besides, any sand-bank that prevents or interferes with navigation, being on the contrary more uniform in its depth than the one to the right. The statement shows in the clearest manner that the two islets to which I have referred, occupy the right border of the deepest channel of the river in its actual state, and that they must have been in equal condition at the time of the drawing of the limits, as both science and experience demonstrate.

This much for the technical part: let us see now what tradition and use can show us in this respect. Before the drawing of the dividing line the two islands were indiscriminately used by the inhabitants of both banks of the river; those of the right made a more frequent use of them because access was easier to them, owing to the fact of its drying up at low-water, and being much less deep at high tide, they could cross the channel dry-footed in the first case and seldom deemed it worth while to take a boat in the second. Since the tracing of the limits, Mexican citizens exclusively have made use of the two islands. In the island of Sabinito there has been up to date no efforts to attempt to interrupt this custom; in that of Morteritos the residents of the American side have attempted to go over to the islet to take wood, however, this has been the object of immediate reclamation, the result being that the abuse has been almost entirely corrected, and only during the night and stealthily have they returned to renew the attempt; on the contrary, in the two islands, there are farms sown by the *rancheros* of the Mexican side; this custom and quiet possession have never been disputed by any one; all of them had knowledge of my mission, they accompanied me in my operations and were truly astonished that the Government had thought it necessary to examine on whose side was the right to the islets when there has not been the slightest motive for questioning it, at least in the locality itself. There is the peculiarity, that both islets are uncultivated, and that notwithstanding the fact that no one's ownership is acknowledged by prior or tacit agreement the sowing of the one is respected while the others confine themselves to taking fire-wood or lumber the trade in which is the principal industry of San Pedro.

It is really satisfactory to be able to quote these facts, which are the most definite corroboration of my deductions and conclusively clear up the question given to be solved. By order of

the President of the Republic I have the honor to transcribe to you the foregoing for your information, and as a result of your despatch relating thereto, dated 11th of July of the past year. Liberty and Constitution, Mexico, April 19, 1880.

M. FERNANDEZ, *Chief Clerk*.

To the SECRETARY OF FOREIGN RELATIONS, Present.

A true copy.

Washington, June 12, 1884.

CAYETANO ROMERO.

[Inclosure 6.]

“DEPARTMENT OF STATE AND FOREIGN RELATIONS.”

The Chief Clerk in charge of the Department of Public Works writes as follows:

“Citizen Ignacio Garfias—11th of July of last year.

I have the honor to transmit it to you for your information, and as result of your communication of the 8th of (?) 1879, stating that in view of the scientific report of Engineer Garfias, enclosed in this communication and of the one sent by the Consul of Mexico in Rio Grande City, which I had the honor to enclose in my despatch of the 7th of February last, that the islets of “Sabinito” and “Morteritos” situated near Roma, Texas, belong entirely to the territory of the Republic. Liberty and Constitution.”

Mexico, April 26, 1880.

RUELLAS.

To the SECRETARY OF STATE AND
OF THE DEPARTMENT OF THE TREASURY.

A true copy.

Washington, D. C., June 12, 1884.

CAYETANO ROMERO, *Secretary*.

[Inclosure 7.]

A seal which reads: “Department of State and Ministry of the Treasury and Public Credit.”

In view of the contents of your communication of the 26th of April last, in which you transcribe the one you sent to the Department of Public Works inserting the report presented by Engineer I. Garfias relative to an islet that is found in the Rio Bravo, near Roma, Texas, the President of the Republic has been pleased to order that a section of two members of the police force of Camargo shall be established in said islet, for the purpose of preventing the contraband trade that is there carried on through that islet.

I have the honor to transmit it to you for your knowledge, as a result of your communication relative thereto.

Liberty and Constitution.

Mexico, June 10, 1880.

TORO.

To the SECRETARY OF FOREIGN RELATIONS. Present.

A true copy.

Washington, D. C., June 12, 1884.

CAYETANO ROMERO, *Secretary*.

[Inclosure 8.]

A seal which reads: Mexican Republic, Government of the State of Tamaulipas. Section 2.

Transcribed telegram dated 23rd instant accompanying copy of statements received by the authorities of Ciudad Mier on account of the invasion of Mexican territory by American citizens, begging that necessary measures be taken to prevent such a flagrant violation of the treaties.

Under date of the 23d I said to you by telegram the following: Texans headed by W. W. Bohrmann and O. W. Brewerton invaded and took possession of the Island of Morteritos in the Rio Bravo, despoiling and expelling Mexican citizens who own it, residents of the city of Mier: said Island belongs to Mexican territory, because it remained on the right of the largest arm and the deepest channel, at the fixing of the limits of the two nations. Please inform the President of what has occurred in order that he may take the necessary measures. By mail I send detailed information."

In fulfillment of the preceding message, I have the honor to send you a copy of all the statements received from the authorities of Mier city, in order that the President of the Republic may be informed through them, and that he may dictate the measures that are in his power to prevent this invasion of national territory in flagrant violation of the treaties.

Liberty and Constitution. Victoria city. February 23 1884.

JUAN GÓJAN.

MARIANA A. STERENTE, *Secretary*.

To the SECRETARY OF RELATIONS (FOREIGN) Mexico.

A true copy. Washington, D. C., June 12, 1884.

CAYETANO ROMERO, *Secretary*.

[Inclosure 9.]

A seal which reads: Department of the Government of Tamaulipas.

Copy.—There is an azure-tinted stamp which reads: Presidency of the Republican Municipality, City of Mier.

As the Government will acquaint itself by the enclosures that I have the honor to annex, a party of fifty men, coming from the state of Texas and headed by W. W. Bohrman and O. W. Brewerton, took possession, on the 20th day of January last, of the island of Morteritos, in the Rio Bravo del Norte, an island in the possession of its owners, residents of this city, and appertaining to the territory of Mexico on account of its having remained on the right of the larger arm and deepest channel of the Rio at the fixing of the limits of the two nations by the treaties of 1848 and 1854 that established as the dividing line between the two republics at the parallel of the $31^{\circ} 47'$ latitude North, the deepest channel of the river where there was more than one channel, as it was at that time. The invaders on taking possession of said island, drove away with threats the owners who were found sowing the ground. They cut off and carried off timber, they scattered over the island, destroying the fences and buildings that were there, made by the owners, residents of this city. A recent change made in the channel of the Rio by the swelling of the waters has given occasion for the event because owing to this change in the basin the Island of Morteritos, that was, at the date of the treaties of limits on the right of the larger arm and deepest channel of the Rio Grande, has now remained on the left of it. The political authorities here were informed of the event by Don Manuel Garza Peña, resident of this place and one of the owners of the island that were driven away from it by those that invaded it. I instituted an inquiry on the situation of said island of Morteritos, the result of which was that by the declarations of Don Francisco Flores Gonzalez, Commissioned Colonel of Cavalry, native and resident of this city, seventy-eight years of age, Don Anastasio Barrera, landholder, and resident, sixty-eight years old, Don Juan Sabas Flores, land owner, native and resident of this city, seventy years old, Don Pedro Barrera, land-holder resident of this city, fifty-one years old, Don José Nazario Rodriguez, land-owner, native and resident of this city, sixty years old, and Don José Maria Garza Peña, land-owner, native and resident of this city, fifty-two years old, all personally known to the undersigned, President of this Republican Council, and all persons that for

their age, capacity, instruction, probity, the independence of their means and their personal antecedents, have always deserved faith and credence, having no direct or indirect interest in said island of Morteritos; the result, I repeat, of which was that by the declarations of these individuals "the said island has always belonged to Mexico and been under the jurisdiction of Mier, the heirs of Don Francisco Garcia possessing it by ownership, one of whom is Don Manuel Garza Peña, already referred to; that though there has recently been a change in the deepest channel of the river, before this the largest arm of the same and its deepest channel have always been on the side of Texas, so much so that the steamers during the war with the United States used to pass through it and a long time after."

In view of these declarations and besides because it is notorious that said Island has always been recognized by all, both authorities and inhabitants of both banks of the river, as Mexican territory and an integral part of the municipality of Mier in the State of Tamaulipas, to which municipality and state it has always paid the taxes there established, as the owners can prove by their receipts, I ordered the Administrator of Justice of the demarcation of Guardado, in which the said island is placed, to verify the facts as they were stated by Don Manuel Garza Peña, as you will see by the copy marked No 1.

Said Administrator reported as stated in the copy herewith marked No 2. In view thereof, there being no ——— in Starr County, Texas, whence the invaders came (i. e., W. W. Bohrman, Justice of the Peace of the town of Roma and O. W. Brewerton, the surveyor of that county, and the residents of the same who accompanied them) I addressed to the County Judge of Starr County the letter of which a copy is given sub. no. 3, in reply to which I received a letter from that Judge, of which I enclose a copy under No 4, in order that the Government may be informed of the event, which is of great importance to the integrity of our territory, if left as a precedent uncared-for by the authorities, because other events of the same nature will follow, and in view of the accompanying documents may take suitable measures in the case, addressing the Supreme Government, I hasten to inform it of all that is stated in this communication and copies annexed, hoping to receive the determination reached on this subject, observing that the invaders have had recourse to the tribunals of Texas, begging that the land of said island of Morteritos should

be declared to have been acquired by right of accession by the owners of the land on the left bank of the Rio Bravo del Norte.

Liberty and Constitution. Mier City, 15th February, 1884.

C. G. GARCIA

AMBROSIO GONZALEZ, *Sec.*

Citizen Governor of the State.

Victoria City.

A copy.

Washington D. C. June 12, 1884.

CAYETANO ROMERO, *Sec.*

[Inclosure 10.]

Document No 1.

A stamp which reads: Presidency of the Republica Municipality of Mier.

Don Manuel Garza Peña presented himself and stated that a crowd of about fifty individuals residents of and coming from Texas, headed by the Judge of the Peace of Roma, W. W. Bohrman, and by the Surveyor O. W. Brewerton, on the 20th instant, invaded the Mexican territory and committed acts of spoliation in the Island of Morteritos, which is Mexican territory included in this jurisdiction, and belongs to individuals, residents of this municipality—The complainant adds that they broke the fences, cut down timber and threatened the servants of the owners that they met there with assault if they remained on the island. As this occurrence if it really took place, is of such gravity that it requires that the authorities proceed with the greatest thoroughness and rapidity, to verify and apply a speedy remedy, as soon as you receive this communication you will proceed to verify the facts and report in writing immediately that which is proper, and I advise you that the complainant states that Messrs. Don Felipe Muñoz, Don Francisco Guerra, Don Anastasio Medina, and Don José Maria Gonzalez were witnesses to the invasion and Don Cipriano Perez, José Maria Gonzalez, Matias Guzman y Merced Garcia to the destruction of fences and carrying off and cutting down of timber and that among the individuals, those known are Antonio Escobar, Prudencio Escobar, Jesus Sacuz, Ramon Escobar, Santos Escobar, Tonia Saens, Juan Saens, Eugenio Ibañez, Timoteo Garza, Carlos Garza, and Justo Salinos, all

residents of Texas, except Mr. Eugenio Ibañez, who is an inhabitant of this city.

Liberty and Constitution.

City of Mier, January 29, 1884,

C. G. GARCIA. (his flourish)

AMBROSIO GONZALEZ, Sec. (his flourish)

Citizen Administrator of Justice for
Upper Guardado.

I certify that this is a copy of the original.

C. G. GARCIA

AMBROSIO GONZALEZ, Sec.

A blue stamp which reads: Presidency of the Republican Council, City of Mier.

A copy.

Washington, D. C., June 12, 1884.

CAYETANO ROMERO, Sec.

[Inclosure 11.]

Document No. 2.

MUNICIPALITY OF THE CITY OF MIER.

OFFICE OF THE CHIEF JUSTICE OF GUARDADO.

Republican Council.

I have received your communication in which you order me to proceed to investigate the facts about the Island of Morteritos and in fulfillment of your order of to-day, I went to the Ranch of Morteritos to make suitable investigations, and proceeded in the following way: I summoned the parties who had witnessed the destruction of timber in the Island to meet and present themselves before me; and took the depositions of Citizens Cipriano Perez, José Maria Gonzalez, Matias Guzman y Merced Garcia; I went afterwards in company with two of the number and the interested party, to the Island, for more information concerning the facts; I met with destruction of timber of all kinds, beside what the individuals were able to carry away, because one can see the havoc which they committed, destroying enclosures and breaking the fence in four places, the first place occupying four paces, the second, eleven, the third, three and the fourth five, to which I give testimony. After this I went to Rancho Nuevo in company with one and the interested party, to inquire for Felipe

Muñoz, Francisco Guerra and Anastacio Medina and found them ready to testify as to the invasion; of all of which I advise you of for your guidance and consequent purposes.

Liberty and Constitution.

Upper Guardado, January 29, 1884.

MANUEL G. GARCIA.

I certify that this is a copy of the original.

C. G. GARCIA

AMBROSIO GONZALEZ, *Sec.*

There is a blue stamp which reads: Presidency of the Republican Council—Mier City.

A copy.

Washington, D. C. June 12, 1884.

CAYETANO ROMERO, *Sec.*

[Inclosure 12.]

With your communication of the 23d of February last, copies were received in this Department of the statements referring to the invasion of the island called "Morteritos" belonging to the national territory, by individuals from Texas.

To enable this Department to take the necessary steps, I beg you to inform me, with the least delay possible, whether the change in the currents of the Rio Bravo owing to which the said island has remained on the left side of the largest arm and the deepest channel of said river, was effected in a slow manner during the course of time, or whether this change was sudden and violent, determining in a little while the present situation of the above-mentioned island.

You will please, for the further illustration of the point in debate, annex to the required information a sketch showing with due precision, the present position of the island of Morteritos and its previous one.

Liberty and Constitution. Mexico, March 12, 1884.

FERNANDEZ.

To the GOVERNOR OF THE STATE OF TAMAULIPAS. Victoria City.

A copy.

Washington, D. C., June 12, 1884.

CAYETANO ROMERO, *Sec.*

[Inclosure 13.]

A stamp that reads: Department of State and of the Treasury, and Public Credit—Mexico.

By a telegram dated yesterday the Collector of Customs of Mier sends the following message to this Department:

“I have received information of the existence of contraband dealings in foreign horses and cattle on lands in the island of Morteritos; however, as it is situated in the Rio Bravo, I have consulted the President of Council as to whether it was Mexican territory, and he informed me that it had always been considered as belonging to this jurisdiction; that however in consequence of the late freshets, the course of the river had been changed, and the nationality of it is now being argued before the American courts, a circumstance which has made me hesitate in coming to a decision, begging you to tell me what I must do. It is also proper for me to inform you that a few days ago, American custom-house guards, by order of the collector seized some Mexican cattle on said land and insisted on security from the owner pending the decision of the courts. I hope to hear promptly by telegram what you decide.”

I have the honor to transcribe this to you, begging you to tell me with all the speed the case requires whether the island alluded to is part of the national territory, and whether the Mexican authorities exercise jurisdiction over it, so that in view of this information this Department may adopt the necessary measures respecting the fiscal service.

Liberty and Constitution. Mexico, February 29, 1884.

PEÑA.

To the SECRETARY OF FOREIGN RELATIONS, Present.

A copy.

Washington, D. C., June 12, 1884.

CAYETANO ROMERO, *Sec'y*.

[Inclosure 14.]

The Governor of the State of Tamaulipas informed this Department, by a communication of the 23d of February last, that several individuals from Texas, headed by W. W. Bohrman and O. W. Brewerton, invaded the island of Morteritos, in the Rio Bravo, and took possession of it, dislodging from the same the Mexican citizens who possessed it, who were residents of Mier city.

From the investigation made by the Council of this city of Mier and from the statements and enclosures, copies of which were sent

to the Governor, it appears that the invasion took place on the 20th of January of this year; that the island, which was inhabited by residents of Mier, has always been considered as an integral part of the territory of Mexico, being on the right of the largest arm and the deepest channel of the Bravo at the fixing of the limits of these two nations by the treaties of 1848 and 1854, which established as the dividing line as far as the parallel of $31^{\circ} 47'$ north latitude the deepest channel of the river, where it had more than one channel, and it had at this point, and that by a recent change made in the channel by the freshets in the Bravo, the island referred to has remained on the left of the largest arm of the deepest channel of the said river.

In order to adopt suitable measures, this Department asked information from the Governor of Tamaulipas relative to the change in the currents of the Rio Bravo, owing to which the island aforesaid has remained on the left bank of the largest arm of the deepest channel of said river, whether it occurred in a slow manner, in the course of time, or whether the change was sudden and violent, determining in a short time the present situation of the said island. I also asked said functionary to join to his report, for the better illustration of the point, a sketch in which could be seen with due precision the present position of the island and the one it held before.

The above-mentioned Governor has answered by a communication of the 7th of the current month, enclosing a letter sent to him by the President of the Council of the City of Mier, in which he says it is impossible to comply with the request of this Department for want of an engineer to make the required sketch.

In view of the importance of this matter and for the purpose of adopting suitable measures, I beg you to name an engineer that could go in person to reconnoitre the disputed spot, in order to present to this Department the information and sketch requested from the Governor of Tamaulipas.

Liberty and Constitution.

Mexico, May 21, 1884.

FERNANDEZ.

To the SECRETARY OF PUBLIC WORKS.

A copy.

Washington, D. C., June 12, 1884.

CAYETANO ROMERO, *Sec.*

[Inclosure 15.]

[Telegram. Sent from Mier, May 17, 1884. Received in Mexico on the 18th.]

DEPARTMENT OF FOREIGN RELATIONS.

Major Offney, commanding at Fort Ringgold, Rio Grande City, Texas, called at this Consulate today, to make an official visit, informing me that he had received orders from the Government at Washington to take possession of the island of Morteritos, the Supreme Government of the United States considering it as the property and territory of that country.

The Consul

JOSÉ M. OPUÑONES.

A copy.

Washington, D. C. June 12, 1884.

CAYETANO ROMERO, *Sec.*

[Inclosure 16.]

A stamp which reads: Department of State and of Foreign Affairs, Mexico. Political Department. Section of America. No. 37. Island of Morteritos.

MEXICO, *May 23, 1884.*

I have received your telegram of the 17th instant referring to the visit that was made to you by the Commander of Fort Ringgold to notify you of the order which he has received from the Government at Washington to take possession of the island of Morteritos.

In answer I inform you that our Legation at Washington has already been properly instructed respecting the matter.

I renew to you my highest consideration.

FERNANDEZ.

To the CONSUL OF MEXICO AT ROMA TEXAS.

Copies. Mexico, May 26, 1884.

JOSÉ FERNANDEZ.

A copy.

Washington, June 12, 1884.

CAYETANO ROMERO *Sec.*

[Inclosure 17.]

[Translation.]

Index to the documents that the Legation of Mexico in Washington, enclosed to the Department of State of the United States, with its note of this date, respecting the islands of Morteritos and Sabinos in the Rio Bravo.

No.	Date.	Contents.
1	1879, Dec.	26. Statement of the Consul of Mexico at Rio Grande City, Texas, to the Department of Foreign Relations, relative to the situation, extent and dependence of the island of Morteritos.
2	1880 February	4. The Department of Public Woks forwards to the Dept. of Foreign Relations a statement of the Judge of the Custom-house Section of Camargo on the same subject.
3	1874 March	9. Adjustment in the litigation between the owners of the island of Morteritos and its dependencies, verified before the alcalde of the 3 ^d Constitutional of Mier.
4	1880 April	9. Report submitted to the Department of Public Works by the Engineer Don Ignacio Garfias, showing that the island of Morteritos belongs to Mexico.
5	" "	" Copy of the sketch annexed to the preceding report.
6	1880 April	26. Communication from the Department of Foreign Relations to that of the Treasury transmitting the preceding report, and stating that as well by it as by the opinion of the Consul of Mexico at Rio Grande City, Texas, it appears that the islands of Morteritos and Sabinos belong to Mexico.
7	1880 June	10. Communication from the Department of the Treasury to that of Foreign Relations advising the latter Department that a Section of custom-house guards has been sent to the island of Morteritos to prevent smuggling viâ that island.
8	1884 Feb.	23. Communication from the Governor of the State of Tamaulipas to the Department of Foreign Relations advising that Department that he has sent by telegram news of the invasion and occupation of Morteritos by citizens of the United States, who have expelled the Mexican owners of the island.
9	1884 Feb.	15. Communication of the President of the Council of Mier to the Governor of Tamaulipas announcing the above facts.
10	" Jan.	15. Communication from the President of the Council of Mier to the Chief Officer of Justice and Coast-Guards asking him for information on this point.
11	" Jan.	29. The Chief Officer of Justice of Guardado advises the President of the Council of Mier that he personally visited the island of Morteritos with several residents and saw the destruction committed by the citizens of the United States that invaded it.
12	" March	12. Communication of the Department of Foreign Affairs to the Governor of the State of Tamaulipas, directing him to ascertain whether the change in the basin of the Rio Grande occurred in a slow manner and in the course of time, or if it was sudden and violent, determining in a short period the actual situation of the said island.

No.	Date.	Contents.
13	1884. February 29.	Communication of the Department of the Treasury to the Dep ^t of Foreign Relations, transcribing a telegram from the Collector of Customs at Mier, asking if the island of Morteritos belongs to Mexico, in order to be able to prosecute effectively a contraband trade that is found in said island.
14	" May	21. Communication of the Department of Relations (Foreign) to the Department of Public Works, asking that an engineer be sent immediately to Morteritos to examine the changes recently made in the Rio Grande with reference to the island of Morteritos.
15	" May	17. Telegram from the Mexican Consul at Roma, Texas, to the Department of Foreign Relations, advising it of the notice given to him by the Commandant of Fort Ringgold that he had orders from his government to occupy Morteritos as belonging to the United States.
16	1884 May	23. Communication from the Department of Foreign Relations to the aforesaid Consul acknowledging the receipt of his telegram and informing him that suitable instructions have already been sent to the Legation at Washington.

Washington, D. C. June 12, 1884.

CAYETANO ROMERO. *Sec.*

Mr. Frelinghuysen to Mr. Morgan.

No. 591.

DEPARTMENT OF STATE,
WASHINGTON, *June 17, 1884.*

PHILIP H. MORGAN, Esq.

&c. &c. &c.

SIR:

I forward, herewith, in connection with the Department's instruction to you No. 550, of April 23rd last, the enclosed copy of a letter from Mr. J. L. Haynes, an attorney at Brownsville, of the 2nd instant, preferring a claim on behalf of Benito and Serapio Munos and other American citizens, against the Government of Mexico, aggregating \$545.00 on account of the illegal seizure by the Deputy Collector of Customs at Mier, Mexico, of certain cattle, from Islands in the Rio Grande, understood to belong to the United States.

I have explained to Mr. Haynes the present situation of the correspondence upon this subject between Mr. Romero, the Minister of Mexico, here, and myself and I now observe for your information that the jurisdiction of the islands referred to is receiving consideration. In his notes upon the subject, Mr. Romero calls the islands Morteritos and Sabinos which are supposed to be

Islands No. 12 and 13 in the Rio Grande between Ringgold Barracks and Roma, Texas, the latter number being also known as Beaver Islands.

In a letter to the Secretary of War of the 10th instant, touching the disputed jurisdiction over the islands in question, I said as both governments seem to rely with equal certainty on the records of the Boundary Survey under the Treaty of February 2, 1848, to sustain the jurisdictional claim to those Islands, a careful examination of the records and comparison of field notes, &c., to finally determine the question, is advisable.

I therefore suggested to Mr. Lincoln that Major (now Brigadier General) William H. Emory, who conducted that Survey, may be permitted to make examination of records and report before this Government takes any further steps in the controversy.

I have, however, stated to Mr. Haynes, that copy of his letter would be forwarded to you in order that by its submission to the Mexican Government all rights of our citizens as to the seizure in question, might be reserved.

I am, Sir,

Your obedient servant,

FRED^R. T. FRELINGHUYSEN.

(Enclosure: Mr. Haynes to Mr. Frelinghuysen, June 2, 1884, with enclosures.)

[Inclosure.]

Mr. Haynes to Mr. Frelinghuysen.

BROWNSVILLE, TEXAS,

June 2nd 1884.

HON. FREDERICK T. FRELINGHUYSEN

Secretary of State, U. S. A.

Washington, D. C.

SIR:

The undersigned, Attorney for Benito and Serapio Muños, Dorotea Sarus, Refugia Sarus, Teodoro Sosa, Ramon Escobar, Antonio de los Santos, Santos Banera, and Wenceslado and Estevan Martinez, all of whom are citizens of the United States and residents of the County of Starr and State of Texas, respectfully represents that on the — day of March 1884, certain *customs house guards of the port of Mier, Mexico*, acting under orders of the

Collector of Customs of the aforesaid Port of Mier, Mexico, crossed the Rio Grande near their residences in Starr county, about one and a half miles below the town of Roma, and in front of certain islands in the Rio Grande, known as “ Beaver Islands ”, and there seized certain live animals, the property of said parties and fully described in the annexed list, the aggregate value of which amounted to five hundred and forty five dollars, and by force of arms carried the said property to Mier, Mexico, when the same was delivered by said guards to the Collector of Customs of said port, and the said property was by the said Collector confiscated and sold, under the pretext that the same was seized upon Mexican territory and for violation of the revenue laws of that country, whereas the said property was upon the lands of the said owners in the said county of Starr and State of Texas, and had never been within the jurisdiction of the republic of Mexico.

The following is a list of the said property, its value, and respective owners, to wit:—

Belonging to Benito & Serapio Muños:	
2 Cows, with calf, of the value of @25\$.....	\$50. 00
2 Bulls, 3 years old @20\$.....	\$40. 00
1 Cow, 3 years old.....	\$20. 00
1 Cow, 2 years old.....	\$15. 00
Total.....	\$125. 00
Belonging to Dorotea Sarus	
2 Cows, 3 years old @20\$.....	\$40. 00
2 Young bulls, 3 years old @15\$.....	\$30. 00
Total.....	\$70. 00
Belonging to Refugia Sarus:—	
3 Cows, with calf, of the value of @25\$.....	\$75. 00
3 Cows, 3 years old 20\$.....	60. 00
1 Cow of 1 year old.....	5. 00
Total.....	\$140. 00
Belonging to Teodora Sosa:	
1 Bull, 3 years old, value.....	\$20. 00
Belonging to Ramon Escobar:	
1 young bull, 2 years old.....	\$15. 00
Belonging to Antonio de los Santos:	
1 Bull, 3 years old.....	\$20. 00
Belonging to Santos Banera	
3 Steers or beeves @ 20\$.....	\$60. 00
Belonging to Wenceslado Martinez	
2 Cows, with calf @25\$.....	\$50. 00
Belonging to Estevan Martinez	
9 Hogs @5\$.....	\$45. 00
Aggregate total.....	\$545. 00

The pretext for this seizure of their property was that the point where it was seized was *Mexican* territory, the ground for this claim being that the "Beaver Islands" belonged to Mexico, and, these islands having become attached to the *Texas* bank of the Rio Grande by the caving in of the banks of the river and the filling up of the channels between the islands and the Texas shore, *the accretion also* belonged to Mexico. Whereas, the fact is, that the Boundary Commissioner under the treaty of Guadalupe Hidalgo decided that the main channel of the Rio Grande ran between the Beaver islands and the Mexican side, and that these islands belong to the United States.

The following sketch^a will show where the seizure was made, and that the pretext that it was on Mexican territory is absurd:—

We respectfully ask that a demand may be made upon the Mexican authorities for the value of our property thus illegally and violently seized upon the soil of the United States, and carried into Mexico and there confiscated and sold by her public agents and officers. This is not an ordinary case of custom-house seizure where any question might arise that would justify a return to the claimants of nett proceeds of sale of the seizure, but it involves an invasion of the territory of the United States and the capture of the property of her citizens without any justification or right whatever, and requires full indemnification, and ought to require also exemplary damages. The price of the cattle seized has been placed at the ordinary market value, at which it could have been sold in open market.

The claim is respectfully submitted to you with the request that it may be properly represented to the Government of Mexico, which will doubtlessly order the Collector of Customs at Mier to indemnify the owners in the full value of the property so unlawfully and violently seized from them by his orders.

With considerations of the highest regard, etc.

J L HAYNES

Attorney.

^a [Sketch omitted.—Agent's note.]

[Sub-inclosure.]

Señor Vizcaya to Mr. Lome.

UNITED STATES CONSULAR AGENCY

MIER MEXICO *May 31st, 1884*

Mr. GEO. W. LOME

*U. S. Customhouse inspector**Roma, Texas*

SIR:

The cattle brought to this town from Island no 13, were there taken by the (contador) Deputy Collector of this Mexican Customhouse, accompanied by five Customhouse inspectors, and driven from said Island to the Custom-house building in this town, where they were sold to different parties, by order of the Collector of Customs here, and for account of the Mexican Government.

The Mexican Federal court, at Laredo Mexico has knowledge of this said facts.

I am Sir Yours Respectfully

ENRIQUE VIZCAYA,
U. S. Consular agent

Señor Romero to Mr. Frelinghuysen.

[Seal of the Mexican Legation in the United States of America.]

WASHINGTON, *7 de Julio de 1884.*

Señor SECRETARIO:

Refiriéndome á las varias notas que he dirigido á Ud. respecto de la conveniencia de celebrar un arreglo que sirva de complemento á los tratados de 2 de Febrero de 1848 y 29 de Diciembre de 1853 que fijaron la línea divisoria entre los Estados Unidos Mexicanos y los Estados Unidos de América, y que evite las dificultades que frecuentemente suscita el cambio en el cauce del Rio Bravo, tengo la honra de llamar la atencion de Ud hacia la opinion que expresa sobre este asunto el comisionado encargado por los Estados Unidos de hacer la demarcacion de la línea divisoria, y la cual aparece en el párrafo final de la página 65 vol. I del Informe del Mayor William H. Emory, Comisionado del Gobierno de los Estados Unidos, fechado el 29 de Julio de 1856.

Ese párrafo dice asi:

“We however agreed, as far as that agreement may be worth anything, that in case the channel of the river changed, the right of navigation through the new channel should remain unimpaired, but the jurisdiction of land should remain as we had arranged.”

Estos conceptos que son sustancialmente los que el Gobierno de Mexico ha propuesto al de los Estados Unidos para evitar las dificultades que puedan originarse con el cambio de cauce del Rio Bravo, indican que lo que ahora propone Mexico, se consideró como la solucion mas conveniente por el Comisionado de los Estados Unidos que trazó la línea divisoria, antes de que se presentara ninguna dificultad practica y cuando solamente se preveía un suceso que ha tenido lugar despues y que puede dar margen á dificultades que está en el interes de ambos gobiernos evitar.

Sírvase Ud. aceptar, Señor Secretario las seguridades de mi muy distinguida consideracion.

M. ROMERO.

[Translation.]

(Seal of Mexican Legation)

WASHINGTON, *July 7, 1884.*

MR. SECRETARY: .

Referring to the several notes that I have addressed to you concerning the convenience of celebrating an agreement which should serve as a supplement to the treaties of February 2, 1848 and December 29, 1853, which fixed the boundary line between the United Mexican States and the United States of America, and which should avoid the difficulties which are frequently caused by the change in the channel of the Rio Bravo, I have the honor to call your attention to the opinion which is expressed on this subject by the Commission charged by the United States with making the demarkation of the boundary line, and which appears in the final paragraph of page 65, vol. 1, of the Report of Major Wm. H. Emory, Commissioner of the Government of the United States dated July 29, 1856.

That paragraph reads thus:

“ We however agreed, as far as that agreement may be worth anything, that in case the channel of the river changed, the right of navigation through the new channel should remain unimpaired, but the jurisdiction of land should remain as we had arranged.”

These ideas which are substantially those which the Government of Mexico had proposed to that of the United States to avoid the difficulties that may arise with the change in the bed of the Rio Bravo, indicate that what Mexico now proposes was considered as the most convenient solution by the Commissioner of the United States which traced the boundary line, before any practical difficulty presented itself, and when then was only

foreseen a happening which has taken place later and which can give room for difficulties which it is the interest of both governments to avoid.

Be pleased to accept, Mr. Secretary, the assurances of my very distinguished consideration.

M. ROMERO.

Hon. FREDERICK T. FRELINGHUYSEN.

etc. etc. etc.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
Washington, July 10, 1884.

Señor Don MATIAS ROMERO,
&c., &c., &c.

SIR:

I have had the honor to receive your notes of the 31st May and 5th June last past, respecting the advisability of settling by an international convention the difficulties which may arise through the frequent changes in the bed of the Rio Grande where it is the boundary line between the United States and Mexico.

The subject has also been referred to in several conversations we have had touching pending matters. I have already personally expressed to you my belief that the proposition had better remain in abeyance until the pending dispute concerning jurisdiction over Morteritos Island is adjusted, inasmuch as the mode of settlement of that question might form a convenient precedent to be followed as a general principle in a formal convention.

With respect, further, to your reference to the consultations between Mr. Fish and Señor Mariscal between March 25, 1875 and July 22, 1876, looking to the negotiation of such a convention, and in view of the non-reception by Señor Mariscal of a counter draft said to have been furnished by Mr. Fish in March 1876, I may observe that this would seem to leave the matter open for discussion *de novo*, which unimpeded by previous argument, under the circumstances is perhaps convenient.

Promising to the subject the due and timely consideration its importance demands, I beg you to be pleased to accept, Sir, etc.

FREDK. T. FRELINGHUYSEN.

Señor Romero to Mr. Frelinghuysen.

[Seal of the Mexican Legation]

WASHINGTON 10 de Julio de 1884.

Señor SECRETARIO:

He tenido la honra de recibir la nota de Ud., de esta fecha, en respuesta á las que dirigí á ese Departamento el 31 de Mayo último, y 5 de Junio siguiente, respecto de la conveniencia de arreglar por medio de un pacto internacional, las dificultades que resultan de los cambios frecuentes en el cauce del Rio Bravo, en la parte que forma la línea divisoria entre los Estados Unidos Mexicanos y los Estados Unidos de América desde su desembocadura en el Golfo de México hasta el Paso del Norte.

No dudo que el Gobierno Mexicano verá con satisfaccion los conceptos finales de la nota de Ud en los que ofrece consagrar oportunamente á este asunto la atencion que su importancia demanda, pues mi Gobierno considera conveniente á los intereses de los dos paises, llegar á un arreglo que corte dificultades entre ambos por la causa indicada.

Apreciando este asunto el Gobierno mexicano en toda su importancia, sometió desde 25 de Mayo de 1875, y por conducto del Sr. Mariscal, un proyecto de convencion al Gobierno de los Estados Unidos.

Mr. Fish, quien estaba entónces al frente de ese Departamento, se propuso enviar á esta Legacion, un contraproyecto que nunca se recibió segun expresa la nota del Sr. Mariscal de 22 de Julio de 1876.

En las conferencias que celebraron en esta ciudad los plenipotenciarios nombrados por los Gobiernos de México y de los Estados Unidos, para negociar un tratado de reciprocidad comercial, promovieron este asunto los comisionados de los Estados Unidos, quienes manifestaron en la conferencia de 22 de Enero de 1883

“que tenian instrucciones de llamar la atencion de sus colegas
“mexicanos, antes de cerrar definitivamente las conferencias, hácia
“algunos asuntos de interes comun para los dos paises . . .; pero
“que el Gobierno de los Estados Unidos deseaba que los comisi-
“onados mexicanos llamaran hacia ellos la atencion de su Gobierno
“con objeto de que fuesen considerados mas tarde de una manera
“amistosa; que estos asuntos eran los siguientes:”

“Primero: La determinacion de la línea divisoria que ahora
“sigue el centro del Rio Grande.”

“Los cambios consiguientes al cambio de la corriente del rio, “cambian igualmente la línea divisoria, y con ellos porciones “considerables de tierra de tierra dejándolas unas veces del lado “de México y otras del lado de los Estados Unidos.”

Atendiendo debidamente el Gobierno de México á la recomendacion que le hizo el de los Estados Unidos el 22 de Enero de 1883, para llegar á un arreglo sobre este importante asunto, le ha propuesto las bases que indicaron los comisionados, encargados por ambos paises de demarcar la línea divisoria contenidas en las notas dirigidas á Ud. el 31 de Mayo y 5 de Junio de este año, cuyas bases á juicio del Gobierno mexicano, á la vez que son equitativas y naturales formarian el complemento de los tratados vigentes de límites entre ambos paises.

Estas consideraciones hacen esperar al Gobierno de México, que el de los Estados Unidos verá con agrado el interes que México tiene de discutir y terminar un arreglo sobre este asunto—con la cooperacion del Gobierno de los Estados Unidos.

Sírvase Ud. aceptar, Señor Secretario, las seguridades de mi muy distinguida consideracion.

M. ROMERO.

Al Hon. FREDERICK T. FRELINGHUYSEN,
&c., &c., &c.

[Translation.]

LEGATION OF MEXICO IN THE U. S.,
Washington, July 10th, 1884.

Mr. SECRETARY:

I have had the honor to receive your note of this date, in reply to those which I addressed to your Department on the 31st of May last and the 5th ultimo, in relation to the desirability of settling, by means of an international compact, the difficulties which arise from the frequent changes in the channel of the Rio Grande, in that part which forms the dividing line between the United States of Mexico and the United States of America, from the place where it (the Rio Grande) empties into the gulf of Mexico, to Paso del Norte.

I do not doubt that the Government of Mexico will be glad to read the closing portion of your note, wherein you say that you will, in due time, devote to this matter the attention which its importance demands, since my Government considers it important for the interests of both countries that an understanding be reached whereby these difficulties may be terminated.

The Mexican Government, fully appreciating the importance of this matter, submitted, on the 25th of May, 1875, through Mr. Mariscal, a draft of a convention to the United States Government.

Mr. Fish, who was Secretary of State at the time, said that he would send this Legation a counter-draft, which was never received, according to Mr. Mariscal's note of July 22d, 1876.

During the conferences held in this city by the Plenipotentiaries appointed by the Government of Mexico and that of the United States to negotiate a treaty of commercial reciprocity, this matter was brought up by the Commissioners of the United States, who stated in the conference held January 22d, 1883 "that they had instructions to call the attention of their Mexican colleagues, before the final termination of the conferences, to certain matters of common interest to both countries, * * * *; but that the United States Government desired that the Mexican Commissioners should call the attention of their Government thereto in order that they might subsequently be considered in a friendly manner, and that these matters were the following:

First: the determination of the boundary line, which now follows the centre of the Rio Grande.

The frequent changes arising from the change in the current of the river change the boundary line likewise, and at the same time the situation of considerable portions of land, which are left, sometimes on the Mexican, and sometimes on the American side."

The Mexican Government, paying due attention to the recommendation made by that of the United States, January 22d, 1883, has, for the purpose of reaching an arrangement in this important matter, proposed the bases suggested by the Commissioners appointed by both countries to draw the boundary line, which bases are contained in the notes addressed to you May 31st and June 5th, 1884, and which, in the judgment of the Mexican Government, while they are both reasonable and natural would form the complement of the boundary treaties now in force between the two countries.

These circumstances lead the Government of Mexico to hope that that of the United States will be glad to see the interest which is felt by Mexico in the discussion and adoption of an arrangement relative to this matter with the co-operation of the United States Government.

Be pleased to accept, Mr. Secretary, the assurances of my very distinguished consideration.

M. ROMERO.

Hon. FREDERICK T. FRELINGHUYSEN, *etc.*, *etc.*, *etc.*

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *July 10, 1884.*

Señor DON MATIAS ROMERO,
etc., etc., etc.

SIR:

Your notes of the 13th of March and 24th of May and 2d and 12th of June of the present year, have presented the question of the disputed ownership of two islands in the Rio Bravo, near Roma, Texas. This question has received the careful consideration due to its importance, and I have now the honor to acquaint you with the reply of this Government to the representations made on behalf of that of Mexico, and especially to the detailed case presented with your note of 12th June.

The two islands, as you state, are known, in Spanish, as Morteritos and Sabinitos, and in your note of the 2d of June, it is assumed that they are the islands designated as Nos 12 and 13 at the time of the original survey.

This is however incorrect of Sabinitos Island, which appears in the maps of the original survey made by the Boundary Commission, in 1853, as No. 14, and is therein credited to Mexico. As the papers submitted by you show no question of importance affecting the island of Sabinitos (No. 14), it may be laid aside for the present.

The question seems to be confined to the Island known as Morteritos, which appears in the charts of the Boundary Commission as "Beaver Island," No. 13.

This island was formerly the most southerly and the largest of two pod-shaped islands lying in a bend of the River near the Texan town of Roma. The channel, never at any time navigable, which formerly separated the two islands is now dry, and the channel to the northward of the twin-island so formed, is the widest, and at the present time the deepest of the two arms of the River.

The Mexican claim to jurisdiction rests briefly on the following bases:

(1) A scientific report of the Engineer Garfias, dated 16th April 1880, which argues that the present deepest channel to the northward must always have been the deepest (and therefore under the Treaty of Guadalupe-Hidalgo the boundary line between the two countries) in pursuance of an observed peculiarity of rivers by

which the deepest flow of water follows the hollow of a curve in the river-bed.

(2) Ownership by Mexican citizens, and an Agreement among said owners, in March, 1874, whereby the Island of Morteritos and its accretions were confirmed to them under the authority of Mexico.

The second of these points is to be dismissed forthwith from consideration, for this Government does not admit, nor if the case were reversed is it to be supposed that the Mexican Government would admit, the right of alien owners of land to transfer, under color of any judicial agreement whatsoever, the territorial domain over their estates to the jurisdiction and sovereignty of the nation to whom such individuals owe allegiance. This position is moreover, wholly opposed to the contention of the Mexican Government itself, that the territorial jurisdiction established on behalf of the respective parties to the Treaty of Guadalupe-Hidalgo remain forever as originally fixed under that compact and are not to be affected by any abrupt change in the course of the Rio Bravo.

This reduces the question to one of simple fact, namely, the ascertainment of the boundary channel fixed by the Commissioners under the treaty of Guadalupe Hidalgo.

To the end of ascertaining that fact, an examination of the original records and charts of the Commission of Survey has been made by Brigadier General W. H. Emory of the United States Army, under whose supervision, as Commissioner on the part of the United States, the original survey and determination of the boundary was effected.

That officer, under date of the 19th ultimo, reports as follows:

* * * "By reference to original notes and maps in State Department, I find Islands No. 12 and 14 were assigned to Mexico, and 14 I believe to be Island Sabinos (Sabinitos) referred to by Señor Romero; Island 13 was assigned to the United States. It is no doubt, the Island called by Señor Romero Morteritos, and by me Beaver Island. I say of that island in my report that 'the waters of the Rio Grande are divided at that point into three parts, and the channel that lies nearest to the Mexican shore is so narrow that steamers can with difficulty pass through it, yet the branches, by reason of their shallowness, are wholly impassable for them. An attempt was made by the Mexican local authorities to arrest a steamboat in its passage through the narrow channel, but the actual experience of the navigator proved it to be the true channel and consequently the boundary between the two countries.'

“ It was further agreed between the commissioners that in case the channel changed, the right of navigation should remain unimpaired to both countries, but the jurisdiction of the land should remain as we had arranged.”

So far as the question of territorial jurisdiction in the event of a change in the channel is concerned, the Agreement of the Commissioners remains merely an expression of opinion, which, however valuable as an enunciation of a theoretical principle, has not been confirmed as between the two Governments. That of Mexico has, however, on various occasions, put forth this principle as its own, and a proposal has been made, through your predecessor Señor Mariscal and through you, to negotiate a formal conventional agreement on that basis in settlement of disputes touching the true river boundary under the Treaty of Guadalupe-Hidalgo. That proposal is now under attentive consideration.

As to the original ownership of the two Islands known by the United States Commission as Beaver Islands—being the Island known to your Government as Morteritos, and the smaller Island lying parallel with Morteritos and to the north of it, there can be no doubt that they were by the survey assigned to the United States.

Against the actual record of the Commission (the original charts of which you have been afforded an opportunity of inspecting in person in company with General Emory) the speculative and scientific report of Engineer Garfias and his survey and soundings made seventeen years after the original official determination of the boundary channel, can have no weight whatever; being based on an evidently changed condition of things whereby the old middle water-course between the two Islands has disappeared and the most northerly of the three channels has been deflected and deepened in the process of time.

This Government must deny the implication conveyed in your note of June 12 and its accompaniments, that the United States have tacitly acquiesced in the jurisdictional rights from time to time assumed by the Mexican local authorities over the territory covered by the Islands in question. No case in point had arisen to call the attention of this Government to the question. The owners of the land were Mexican citizens as it appears, and their acquiescence in the Mexican claims of jurisdiction over their land, although natural under the circumstances, was wholly devoid of any confirmatory power, as against the rights of the United States under the treaty. It was not until very recently, when the action of the Mexican authorities of Mier developed a wholly untenable claim to jurisdiction over a broad tract of low-lying land on the

United States bank of the river, which land it was pretended had at some time become united with one of the Islands through the filling up of the waterway between them, that a case calling for investigation and action was presented,—involving also, as it does, the question of the true ownership of the island claimed to have been enlarged by the accretion of United States territory. The rights of the United States in the premises remained, perhaps, dormant, but without laches on their part, and, on the issue being revived, those rights revive too in all their force.

Touching the reference in your note to the statement found on page 65 of the Report of the Boundary Survey that “Islands No. 12 and 13, between Ringgold barracks and Roma, both fall to the United States,” it should be here stated that the Report is erroneous, through a typographical mistake. The original charts and notes show that Island No. 12 is a small Island, named “Green Key Island” on the charts situated in an abrupt bend of the River about halfway between Fort Ringgold and Morteritos Island. Island No. 13, as already shown comprises the twin Beaver Islands, whereof the larger and more southerly was called by the Mexicans Morteritos. The Island known to both parties as Sabinitos (or Sabinos) is marked No. 14 on the chart and lies a short distance above Roma.

In conclusion, I have the honor to inform you, in answer to your several notes, that the facts and record of the case warrant and demand that the Government of the United States shall regard its territorial jurisdiction over the Island of Morteritos, otherwise Beaver Island (No. 13) as established by the Boundary Commission under the Treaty of Guadalupe-Hidalgo,—and, consequently, that the Mexican pretension to that Island and to accretions thereto from the left or United States bank of the Rio Grande shall be denied.

Accept, Sir, etc.,

FREDK. T. FRELINGHUYSEN.

Mr. Frelinghuysen to Mr. Morgan.

No. 609.

DEPARTMENT OF STATE,

WASHINGTON, *July 11, 1884.*

PHILIP H. MORGAN, Esq.

&c. &c. &c.

SIR:

By Instruction No. 550, of the 23rd of April last, you were acquainted with a dispute then lately arisen concerning the legitimate jurisdiction over certain Islands in the Rio Grande (Rio

Bravo) near Roma, Texas, and you were directed to present the matter to the Mexican Government and ask consideration of our just claim to jurisdiction in the premises.

Since then, the Mexican Government has made through Señor Romero, under date of June 12th, ultimo, a counter-complaint, claiming Morteritos Island as Mexican territory, with its accretions, and protesting against any attempt on the part of the United States to exercise authority over that Island.

The note of Mr. Romero and its enclosures, being very voluminous and not yet wholly translated, could not be sent to you herewith without involving inconvenient delay. Copies will, however, go to you as soon as possible, to complete your record.

The question appearing to be one of simple fact, to be settled by the records of the Boundary Commission, under the signatures of both Commissioners, now on file in this Department, I requested the Secretary of War, to direct Brigadier General W. H. Emory, U. S. A., the United States Commissioner on the original Survey, to examine the records and charts thereof. General Emory has done so, Señor Romero having had at the same time opportunity to personally inspect the records and charts. The General's report removes all ground for doubt that Morteritos belongs to the United States, under the prescriptions of the Treaty of Guadalupe Hidalgo.

I have accordingly replied to the Mexican contention by a note to Señor Romero, of which I inclose a copy for your information.

The question would appear to have been in part founded on a case of mistaken identity, in assuming that two small twin-islands below and near to Roma, and separated at the time of the Survey by a shallow water-course now believed to be filled up, were the "Morteritos" and "Sabinos" Islands of the Mexican contention and identical with Islands No. 12 and 13 of the Survey. It seems clear that Sabinitos (or Sabinos) is a large single Island, lying some distance above Roma, and is acknowledged Mexican territory both by the records of the Survey and in the absence so far as known here of any occasion for dispute in respect thereof. Island No. 12, to which Señor Romero refers in one of his notes on the subject, lies lower down the River, near Ringgold Barracks, is styled on the Survey charts "Green Key Island", and likewise appears to belong to Mexico without dispute.

It is apparently in respect only of the small twin-islands, known on the charts both as "Beaver Islands" and as "Island No. 13", that any dispute exists. The larger of these, lying nearest to the

Mexican shore, appears to be known to the Mexicans as "Morteros". The other smaller island of the pair may or may not be locally known as "Sabinos." It bears no separate name on the charts. The fact is, however wholly immaterial, for both the islands are by the two Commissioners assigned to the United States.

After reading my note to Señor Romero and familiarizing yourself with the ground therein taken, you will seek a conference with the Mexican Secretary for Foreign Affairs on the subject. You will point out to him that under whichever aspect it be viewed, whether as resting on a change in the deepest channel subsequent to the assignment of the Survey, or on the allegiance of the reputed Mexican owners of the land and on any agreement among them of which the Mexican courts may have taken cognizance, the Mexican claim is completely at variance with the ground taken by the Mexican Government itself, that the boundary fixed by the survey is definitive, and not to be changed. You may advert to the proposal made to this Government by Mr. Romero, (in a note dated 31st May) to revive the negotiation proposed in 1875 by Señor Mariscal to Mr. Fish for a convention to settle boundary disputes growing out of changes in the channel of the Bravo by declaring that no such change shall affect the actual boundary fixed by the survey, and you may observe that this Government can hardly be expected to attach much weight to that proposition if, in the first case of dispute arising, the Mexican Government is found to adopt a diametrically opposed theory. You may also find it convenient to advert to the circumstance, shown by the enclosures to my No. 550, that the Mexican owners claim the subsequent accretions to Morteros as belonging to them and, consequently, to the territorial jurisdiction of Mexico also, and comment on its untenable character, for, even if Morteros Island were Mexican territory, which the record of the Survey shows it is not, the annexation of U. S. territory by accretion or by change of channel could not be recognized.

You will further point out that in this contention we have the right to deem ourselves the aggrieved party. The Mexican authorities at Mier have assumed to exercise territorial jurisdiction, not merely over the island of Morteros, but over part of the territory of the United States which has since accidentally been joined to that island by the closing of a water-way. Our effort to assert the jurisdictional power belonging to us of right, has been resented as an unwarrantable interference and made the

occasion of a complaint which proves to be baseless. Notwithstanding this, the Government of the U. S. promptly acceded to a request of the Mexican Minister, and directed its authorities on the frontier to avoid all pretext of conflict with the Mexican authorities until the question of ownership should be amicably settled. In communicating to the Secretaries of the Treasury and of War the conclusion of this Government that Morteritos is wholly of the Domain of the United States, the request that the officers of this Government in that quarter should continue to avoid forcible assumption of jurisdiction has been renewed.

Under all these circumstances, you will formally ask that the Mexican Government forthwith cease any claim to territorial jurisdiction over the Island of Morteritos, and cause to be duly respected the boundary line to the south of that Island and between it and the Mexican bank, as determined by the U. S. and Mexican Commissioners in the Survey.

Upon the removal of this question from the field of debate, this Government will have pleasure in taking up and considering Señor Mariscal's original proposal, now revived by Señor Romero, for negotiating a formal convention in settlement of like disputes in future.

I am, Sir,

Your obedient servant,

FRED^r. T. FRELINGHUYSEN.

Enclosure: Mr. Frelinghuysen to Mr. Romero,^a July 10, 1884.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,

WASHINGTON, *July 22, 1884.*

Señor Don MATIAS ROMERO, &c.

SIR: I have the honor to advert to your note of March 13th last, complaining of the seizure February 27th last, by the customs authorities at Roma, Texas of certain cattle the property of Manuel Garga Peña, of Mier, Mexico, from the Island of Morteritos, claimed at the time to be of the Mexican domain.

In my note to you of the 10th instant, the question of disputed jurisdiction over that island, and the claim of Mexico thereto, was fully discussed.

It was therein shown to be identical with island No. 13 or "Beaver Island," as defined by the records of the International

[^a For this inclosure, see *supra*, p. 652.—Agent's note.]

Boundary Survey, and consequently the property of the United States.

I have however referred to the matter at this time, for the reason that agreeably to my note to you of April 8th last, in response to yours of March 13th last, I promised due consideration of the subject. This has accordingly been given by the Secretary of the Treasury to whom your complaint was referred for investigation and report.

I have now received Mr. Folger's reply of the 15th instant, wherein the facts of the case are fully presented and the action of this Department reported. The matter was given the fullest consideration, and, although it seemed evident from the report of the investigating officer, that the seizure was legally made upon the territory of the United States—and I have myself shown that Morteritos Island, so called, was none other than Beaver Island,—the Secretary of the Treasury decided in view of the disputed jurisdiction of the island—the question then not having been definitely determined—and for other reasons which are given, to remit the forfeiture of the seized property and to return the proceeds of the cattle so seized and sold, to Mr. Peña.

I herewith enclose to you a copy of Mr. Folger's letter to the Collector of Customs at Brownsville, of the 5th instant, in which the reasons for this voluntary action on the part of the Treasury Department are stated, and observe in doing so, that the United States Government expects and desires that the Government of Mexico shall not construe Mr. Folger's action to be an acknowledgment that the cattle seized were at the time on Mexican soil. The Secretary of the Treasury was himself convinced to the contrary and recent investigations have established beyond question the correctness of this view.

Accept, Sir, &c.

FRED^K. T. FRELINGHUYSEN.

Enclosure: Mr. Folger to Collector at Brownsville, July 5, 1884.

Mr. Folger to Customs Collector at Brownsville, Texas.

18.071.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
WASHINGTON, D. C., *July 5th, 1884.*

COLLECTOR OF CUSTOMS,
Brownsville, Texas.

SIR: Your letter of April 25th last, was received reporting upon the application of Manuel George Peña by D. W. Nicholson, for

the refund of \$226.00 the proceeds of the sale of certain cattle under Sections 3080 R. S. for a violation of Sections 3098, and 3082, R. S. Case #1527.

It appears that these animals consisting of 12 oxen and two horses were seized from Peña, or his employé while they were engaged in cultivating a strip of land about the nationality of which there was a question: that Peña thought the land belonged to Mexico, and acted in good faith: that the seized cattle were on said land for the purpose of cultivating it alone, and not to be imported into the United States and that there was no intention to defraud the revenue. Special Agent Barney who has investigated the case recommends refund of the money.

The question as to the nationality of the land upon which the seizure was made, is not one upon which this Department can pass and it will be settled by the proper authorities, but in view of all the facts in the case I decide to remit the forfeiture, and you will refund the gross proceeds of the sale, which will be returned to you for the purpose.

Please notify Mr. Nicholson of this decision and report your action to the Department.

Very respectfully,

CHAS. J. FOLGER,
Secretary.

Mr. Morgan to Mr. Frelinghuysen.

No. 880.

LEGATION OF THE UNITED STATES,
MEXICO, *August 12th, 1884.*

SIR:

I have to acknowledge the receipt of your despatch No. 609, July 11, 1884, in regard to a dispute concerning the legitimate jurisdiction over certain Islands in the Rio Grande near Roma, Texas, and in which I was instructed to "formally ask that the Mexican Government forthwith cease any claim to territorial jurisdiction over the Island of Morteritos, and cause to be duly respected the boundary line to the south of that Island and between it and the Mexican bank, as determined by the United States and Mexican Commissioners in the survey."

I was unable to obtain an interview with Señor Fernandez until the 31st ultimo.

I then informed him that, as he was aware, a question had lately arisen between our respective Governments concerning the legitimate jurisdiction over certain Islands in the Rio Grande (Rio Bravo) near Roma, Texas, and the principle contention,

and the one to which I would at present confine myself, was the Island of "Morteritos," the Mexican Government claiming that that Island, with its accretions, belongs to Mexico, while the United States contends that the island (or what was the island) forms part of the territory of the United States.

I said that the Boundary Commissioners appointed under the Treaty of Guadalupe Hidalgo placed this island within the jurisdiction of the United States, and that it having been joined by accretion to the north bank of the river, Mexico claimed not only the island but the accretion referred to and that the Mexican authorities at Mier had assumed to exercise territorial jurisdiction not merely over the island but over that part of the territory of the United States which has since been accidentally joined to that island (Morteritos) by the closing of a water way.

I further said that the efforts of the United States to assert jurisdictional power belonging to them of right, has been resented as an unwarrantable interference and made the occasion of a complaint by Mexico which proves to be baseless. Notwithstanding this, however, the Government of the United States promptly acceded to a request of the Mexican Minister at Washington, and directed its authorities on the frontier to avoid all pretext of conflict with the Mexican authorities until the question of ownership should be amicably settled, and that even now in communicating to the Secretaries of the Treasury and of War the conclusion arrived at by the United States Government that the island was wholly the domain of the United States, the request had been again renewed that the officers of the Government in that quarter should continue to avoid forcible assumption of jurisdiction.

I further said that the Mexican claim to jurisdiction appeared to rest upon two grounds:

1. A scientific report of the Engineer Garfias, dated 16th April 1880, which argues that the present deepest channel to the northward must always have been the deepest (and therefore under the Treaty of Guadalupe Hidalgo the boundary line between the two countries) in pursuance of an observed peculiarity of rivers by which the deepest flow of waters follows the hollow of a curve in the river bed.

2. Ownership by Mexican citizens and an agreement among said owners in March 1874 whereby the island of Morteritos and its accretions were confirmed to them under the authority of Mexico.

I informed Señor Fernandez that the second of these points must be dismissed from consideration as the Government of the

United States did not admit the right of owners of land to transfer under color of any judicial agreement whatever the territorial domain over their estates to the jurisdiction and sovereignty of the nation to whom such individuals owe allegiance.

I then said that this reduced the question to one of simple fact, namely, the ascertainment of the boundary channel fixed by the Commissioners under the Treaty of Guadalupe Hidalgo. This, I said, as I had remarked before, was done by the said Commissioners, they having placed the island, at the time of the survey, within the jurisdiction of the United States.

I informed Señor Fernandez that I had been instructed to formally ask that his Government forthwith cease any claim to territorial jurisdiction over the island of Morteritos and cause to be duly respected the boundary line to the south of that island and between it and the Mexican bank as determined by the United States and Mexican Commissioners in the survey.

I said to Señor Fernandez that on the 31st May last, Señor Romero, the Mexican Minister at Washington, had proposed to you to revive the proposed negotiation made by Señor Mariscal to Mr. Fish in the year 1875 for a convention to settle boundary disputes growing out of changes in the channel of the Bravo and declaring that no such change shall *affect* the *actual* boundary fixed by the survey.

I said that upon the removal of the question of the island of Morteritos from the field of debate, I was authorized to say that the Government of the United States would have pleasure in considering Señor Mariscal's original proposition which has lately been renewed by Señor Romero, as above stated, for negotiating a formal convention for the settlement of like disputes in future, but at the present moment, however, the Government of the United States could hardly be expected to attach much weight to that proposition if in the first case of dispute arising the Mexican Government was found to adopt a diametrically opposite decree.

Señor Fernandez informed me that the question of the proprietorship of the island of Morteritos had been submitted to the proper Department and that as soon as he should receive a report therefrom he would inform me of the decision thereof.

I suggested to him that as the question was one of importance I would be glad to receive his reply at as early a date as possible.

Señor Fernandez requested me to transmit to him a memorandum of the interview which we had had upon the subject, which I

did on the day following (August 1st, 1884) which is substantially as reported in the foregoing.

I have seen Señor Fernandez upon several occasions since the 31st ultimo but he has said nothing to me upon the subject further than that he had received no report from the Mexican authorities with reference to the island, and I therefore deem it proper to let you see that I have complied with your instructions.

I am, Sir, very respectfully,

Your obedient servant,

P. H. MORGAN.

Hon. FRED^R. T. FRELINGHUYSEN,

Secretary of State,

Washington, D. C.

LEGATION OF THE UNITED STATES,

Mexico, August 1st., 1884.

Memoranda of an interview between Mr. Morgan and Señor Fernandez.

July 31st., 1884.

Mr. MORGAN said:

As your Honor is aware, a question has lately arisen between our respective Governments concerning the legitimate jurisdiction over certain Islands in the Rio Grande (Rio Bravo, near Roma, Texas.)

The principal contention, and the one to which I shall at present confine myself, is the Island of Morteritos, the Mexican Government claiming that that Island, with its accretions, belongs to Mexico, while the United States contends that the Island (or what was the Island) forms part of the territory of the United States.

By the Boundary Commission appointed under the Treaty of Guadalupe Hidalgo, this Island was placed within the jurisdiction of the United States. It has been joined by accretion to the North bank of the river. Mexico claims not only the Island but the accretion referred to thereto, and the Mexican authorities at Mier have assumed to exercise territorial jurisdiction not merely over the Island but over part of the territory of the United States which since accidentally has been joined to that Island by the claim of a water way. The effort of the United States to assert jurisdictional power belonging to them of right has been resented as an unwarrantable interference and made the occasion of a complaint which proves to be baseless. Notwithstanding this the Government of the United States promptly acceded to a request of the Mexican Minister at Washington, and directed its authorities on the frontier to avoid all pretext of conflict with the Mexican

Authorities until the question of ownership should be amicably settled. Even now, in communicating to the Secretaries of the Treasury and of War the conclusion of the Government that the Island is wholly of the domain of the United States, the request that the Officers of the Government in that quarter should continue to avoid forcible assumption of jurisdiction has been renewed.

The Mexican claim to jurisdiction appears to rest upon two grounds:

1. A scientific report of the Engineer Garfias, dated 16th. April 1880, which argues that the present deepest channel to the Northward must always have been the deepest, and therefore, under the Treaty of Guadalupe Hidalgo, the boundary line between the two countries—in pursuance of an observed peculiarity of rivers by which the deepest flow of waters follows the hollow of a curve in the river-bed;

2. Ownership by Mexican citizens and an agreement among said owners in March, 1874, whereby the Island of Morteritos and its accretions were confirmed to them under the authority of Mexico.

The second of these points is to be dismissed from consideration as my Government does not admit the right of owners of land to transfer under color of any judicial agreement whatever the territorial domain over their estates to the jurisdiction and sovereignty of the Nation to whom such individuals owe allegiance.

This reduces the question to one of simple fact, namely, the ascertainment of the boundary channel fixed by the Commissioners under the Treaty of Guadalupe Hidalgo.

This, as I have before observed, was done by said Commissioners, they having placed the Island, at the time of the survey within the jurisdiction of the United States.

I have therefore been instructed to formally ask that the Mexican Government forthwith cease any claim to territorial jurisdiction over the Island of Morteritos, and cause to be duly respected the boundary line to the South of that Island and between it and the Mexican bank as determined by the United States and Mexican Commissioners in the survey.

On the 31st. May last Señor Romero, the Mexican Minister at Washington, proposed to the Secretary of State to revive the negotiation proposed in 1875 by señor Mariscal to Mr. Fish for a Convention to settle boundary disputes growing out of changes in the channel of the Bravo, by declaring that no such change shall *affect* the *actual* boundary fixed by the survey.

Upon the removal of the question of the Island of Morteritos from the field of debate, I am authorized to say that my Government will have pleasure in taking up and considering señor Mariscal's original proposition lately renewed by señor Romero for negotiating a formal Convention in settlement of like disputes in future. At the present moment my Government can hardly be expected to attach much weight to that proposition, if in the first case of dispute arising the Mexican Government is found to adopt a diametrically opposite decree.

Señor Fernandez replied that the question of the proprietorship of the Island Morteritos had been submitted to the proper Department and that as soon as he should receive a report therefrom he would inform Mr. Morgan thereof.

Mr. Morgan suggested to señor Fernandez that as the question was one of importance he would be glad to receive señor Fernandez' reply at as early a date as possible.

Señor Romero to Mr. Davis.

[Seal of the Mexican Legation in America.]

MANHATTAN BEACH, N. Y., *22 de Agosto de 1884.*

SEÑOR SECRETARIO INTERINO:

Tengo la honra de informar á Ud, que oportunamente comuniqué á mi Gobierno la nota de Mr. Frelinghuysen de 22 de Julio próximo pasado con la que me remitió copia de una comunicacion del Secretario del Tesoro de los Estados Unidos, avisando á ese Departamento que habia ordenado la devolucion de \$226 que produjo la venta de los bueyes y caballos embargados al Señor Garza Peña, ciudadano mexicano, en la isla de Morteritos.

Hoy recibí una comunicacion de la Secretaria de Relaciones Exteriores de los Estados Unidos Mexicanos, fechada en la ciudad de México el 12 del actual, en la cual se dice que dicha Secretaria ha "visto con satisfaccion que el Gobierno de los Estados Unidos haya dado orden referida, y que segun los deseos de Mr. Frelinghuysen, el Gobierno de Mexico no alegará este hecho, como antecedente que prejuzgue la cuestion pendiente respecto de la nacionalidad de la isla de Morteritos."

Sirvase Ud aceptar, Señor Secretario interino las seguridades de mi muy distinguida consideracion.

M. ROMERO

Hon. JOHN DAVIS,
 &c., &c., &c.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES.

MANHATTAN BEACH, N. Y., *August 22d, 1884.*

Mr. ACTING SECRETARY:

I have the honor to inform you that I duly communicated to my Government Mr. Frelinghuysen's note of the 22d of July last, as an enclosure to which he sent me a copy of a communication from the Secretary of the Treasury, whereby that officer informed the Department under your charge that he had ordered the return of the \$226 which were the proceeds of the sale of the oxen and horses belonging to Mr. Garza Peña, a Mexican citizen, which were seized on the island of Morteritos.

I have this day received a communication from the Department of Foreign Relations of the United States of Mexico, dated City of Mexico, August 12th, wherein it is stated that that Department has seen with satisfaction that the United States Government has issued the order in question, and that, in accordance with Mr. Frelinghuysen's wish, the Government of Mexico will not claim this act as a precedent in its favor, in the question which is now pending in regard to the ownership of the island of Morteritos.

Be pleased to accept, Mr. Acting Secretary, the assurances of my very distinguished consideration.

M. ROMERO.

Hon. JOHN DAVIS, *etc., etc., etc.**Mr. Davis to Mr. Morgan.*

No. 645.

DEPARTMENT OF STATE,
WASHINGTON, *August 29, 1884.*

P. H. MORGAN, Esq.

&c. &c. &c.

SIR:

I have to acknowledge the receipt of your No. 880, of the 12th instant informing the Department of your presentations of the views of this Government to the Foreign Office of Mexico, respecting the legitimate jurisdiction over certain Islands in the Rio Grande (Rio Bravo) near Roma, Texas, and to inform you that your action is approved.

I am, Sir &c.

JOHN DAVIS, *Actg. Sec'y.*

Señor Romero to Mr. Frelinghuysen.

LEGACION MEXICANA,
WASHINGTON 9 de Octubre de 1884.

Señor SECRETARIO:

Tengo la honra de informar á Ud., que oportunamente recibí y transmiti á mi Gobierno, la nota de Ud. de 10 de Julio último, en respuesta á las que dirijí al Departamento de Estado el 13 y 24 de Mayo anterior y 2 y 12 de Junio siguiente, respecto de la cuestion suscitada con referencia á la propiedad de las islas de Morteritos y Sabinitos, situadas en el Rio Bravo.

Se sirvió Ud. expresar en dicha nota, que la isla de Sabinitos, aparece marcada con el N°. 14 en los mapas del reconocimiento original hecho por la comision de límites en 1853, y que quedó del lado de México, por la cual no puede haber duda sobre esto, y respecto de la isla de Morteritos, ó Beaver Island ó isla N°. 13, espresa Ud. "que los hechos y antecedentes del caso, fundan la demanda de que el Gobierno de los Estados Unidos considere estendida su jurisdiccion territorial sobre la isla de Morteritos ó *Beaver Island* (N°. 13) como decidida por la comision de límites que funciono en virtud del tratado de Guadalupe Hidalgo" * * *

Con objeto de que el Gobierno mexicano pudiera hacerse mejor cargo de los fundamentos por Ud. para llegar á las conclusiones que dejo consignadas, solicite en union del General Emory, permiso para examinar los mapas orijinales de la comision mixta de límites que existen en el Departamento de Estado, por no poder consultar aquí los ejemplares existentes en México, pues había cierta confusion en el nombre de la isla N°. 13, y no aparecia claramente si era ó no la de Morteritos.

Hecho un estudio detenido de este asunto por mi Gobierno, el Presidente ha resuelto no insistir en los derechos de México sobre la isla de Morteritos, en el supuesto de ella sea la N°. 13, ó Beaver Island.

El fundamento de esta resolucion consiste en que estipulado en el artículo V del tratado de Guadalupe Hidalgo, de 2 de Febrero de 1848, que la línea divisoria entre nuestros dos paises, desde el Golfo de México hasta el Paso del Norte, fuese el centro del Rio Bravo, y que en donde este tuviese mas de un canal lo fuese el mas profundo, y teniendo esta circunstancia, al hacerse la demarcacion de la línea, por la comision de límites, el canal que estaba al Sur de la isla N°. 13, ó Morteritos, ó *Beaver Island*, quedó esta isla del lado de los Estados Unidos.

Como esta mismo es el fundamento que presenta el Gobierno de los Estados Unidos para sostener sus derechos á dicha isla, reconoce asi que los límites entre ambas Republicas, son los fijados por el tratado de Guadalupe Hidalgo, tales como fueron demarcados por la comision mixta, sin que hayan sido alterados por los cambios ocasionados por la corriente del río, ya en sus margenes ó ya en la profundidad de sus canales.

Muy satisfactorio es para mí, ver que en este punto importante, haya uniformidad de miras y principios entre nuestros dos Gobiernos.

No puedo concluir esta nota sin llamar la atencion de Ud. hacia la buena fé y justificacion del Gobierno de México en el presente caso, pues en vez de dejar pendiente este asunto, ó proponer que él se decidiera por el tratado que ha sometido á la consideracion de los Estados Unidos, procede con lealtad reconociendo sus derechos sin reserva.

Sírvase Ud. aceptar, Señor Secretario, las seguridades de mi muy distinguida consideracion.

M. ROMERO.

Hon. FREDERICK T. FRELINGHUYSEN,
etc. etc. etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *October 9, 1884.*

Mr. SECRETARY:

I have the honor to inform you that I received in due time and transmitted to my Government your note of the 10th July last in reply to those which I addressed to the Department on the 13th of March and the 24th of the preceding May and the 2d and 12th of June, with respect to the question raised touching the ownership of the islands of Morteritos and Sabinitos, situated in the Rio Bravo.

You were pleased to state in the aforesaid note that the island of Sabinitos appeared marked as No. 14 in the maps of the original survey made by the boundary commission in 1853, and that it remained on the Mexican side, for which reason there can be no doubt thereto, and with respect to the island of Morteritos or Beaver Island or Island No. 13, you state: "that the facts and record of the case warrant and demand that the Government of the United States shall regard its territorial jurisdiction over the Island of Morteritos, otherwise Beaver Island (No. 13) as estab-

lished by the Boundary Commission under the Treaty of Guadalupe-Hidalgo."

To the end that the Mexican Government might better examine the bases presented by you in order to reach the conclusions which you expressed, I solicited, together with General Emory, permission to examine the original maps of the Mixed Boundary Commission which exist in the Department of State, since I could not here consult the copies existing in Mexico. There appeared to be an evident confusion in the name of island No. 13, and it did not clearly appear whether it was or was not the Island of Morteritos.

A careful examination on this subject having been made by my Government the President has decided not to insist upon the rights of Mexico over the Island of Morteritos in the supposition that it is island No. 13, or Beaver Island.

The bases of this decision rest upon the stipulations of the 5th Article of the Treaty of Guadalupe-Hidalgo of February 2, 1848, that the dividing line between our two countries from the Gulf of Mexico to Paso del Norte should be the centre of the Rio Grande, and that where this river had more than one channel the line should follow the deepest. This circumstance being borne in mind by the Boundary Commission in laying down the line the channel which lay to the south of Island No. 13, or Morteritos, or Beaver Island, left this island upon the side of the United States.

As this is the basis presented by the Government of the United States to defend its rights to that island it thus recognizes that the limit between the two Republics are those fixed by the Treaty of Gaudalupe-Hidalgo such as were laid down by the mixed commission without having been altered by the changes occasioned by the current of the river whether in its margins or the deepest of its channels.

It is very satisfactory to me to see that in this important point there is an uniformity of views and principles between our two governments.

I cannot end this note without calling your attention to the good faith and justice of the Government of Mexico in the present case, since instead of leaving this matter pending or proposing that it should be decided by the treaty which it has submitted for the consideration of the United States, it has acted with loyalty in recognizing their rights without reserve.

Be pleased to accept, Mr. Secretary, the assurances of my very distinguished consideration.

M. ROMERO.

HON. FREDERICK T. FRELINGHUYSEN, *etc.*, *etc.*, *etc.*

Señor Romero to Mr. Frelinghuysen.

LEGACION MEXICANA,
WASHINGTON, 10 de Octubre de 1884.

Señor SECRETARIO:

En la nota que se sirvió V. dirigirme el 10 de Julio último, en respuesta á las mias de 31 de Mayo anterior y 5 de Junio siguiente, con la primera de las cuales le propuse un proyecto de convencion entre nuestros dos países, con objeto de evitar las dificultades que ocasiona el cambio frecuente en el cauce del Rio Grande, en la parte que sirve de límite entre las dos Repúblicas, cuyo proyecto es sustancialmente el mismo que presentó el Sr. Mariscal á Mr. Fish, el 25 de Marzo de 1875 y renovó el 2 de Diciembre del mismo año, se sirvió V. decirme “que ya me habia expresado personalmente su opinion de que seria mejor que la cuestion quedase “suspensa hasta que se llegase á un arreglo en la cuestion pendiente “respecto á la jurisdiccion en la isla de Morteritos por cuanto á “que la manera de arreglar esa cuestion podria establecer un “precedente que sirviese de principio general en una convencion “formal.”

Terminada ya la cuestion de la isla de Morteritos, por la resolucion del Gobierno Mexicano, que comuniqué á V. en mi nota de ayer, queda subsanada la única dificultad que habia pulsado el Gobierno de los Estados Unidos para discutir esta importante cuestion.

Como las bases que han servido al Gobierno de México para decidir esa cuestion, son las mismas consignadas en el proyecto de convencion que sometí á V. el 31 de Mayo último, las cuales sirvieron tambien de fundamento al Gobierno de los Estados Unidos para sostener sus derechos á la isla Morteritos: esto es que la linea divisoria entre los dos países, por lo que hace al Rio Bravo, es la convenida en el artículo V del tratado de Guadalupe Hidalgo, tal como fué marcada por la comision mixta de límites reunida conforme al mismo tratado, me parece que ambos Gobiernos están de completo acuerdo en el fondo de esta importante cuestion y que solamente quedarán por arreglar asuntos secundarios y de detalle.

Sírvase V. aceptar, Señor Secretario, las seguridades de mi muy distinguida consideracion.

M. ROMERO.

Hon. FREDERICK T. FRELINGHUYSEN,
etc., etc., etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *10th Oct. 1884.*

Mr. SECRETARY:

In the note which you were pleased to address me on the 10th July last in response to my notes of the 31st May and 5th June preceding, in the first of which notes I proposed a project of a convention between our two countries to the end of avoiding the difficulties which are occasioned by the frequent changes in the bed of the Rio Grande in that part of the river which serves as a boundary between the two republics, which project is substantially the same as was presented by Mr. Mariscal to Mr. Fish on the 25th March, 1875 and renewed on the 7th December of the said year, you are pleased to answer me "that you had already expressed personally your opinion that it would be better if the question remained in abeyance until an accord were reached in the pending question in respect to the jurisdiction over the Island of Morteritos, inasmuch as the mode of settling this question might establish a precedent which might serve as a general principle in a formal convention."

The question of the Island of Morteritos being now settled by the decision of the Mexican Government, which I communicated to you in my note of yesterday, the only difficulty which had impeded the Government of the United States from discussing this important question is now out of the way. As the bases which the Government of Mexico has availed itself of in the decision of this question, are the same as those set forth in the draft convention which I submitted to you on the 31st of May last, and as these bases served also as a ground for the Government of the United States to maintain its right to Morteritos Island: that is, that the dividing line between the two countries, in so far as it follows the Rio Bravo, is that agreed upon by Article V of the Treaty of Guadalupe-Hidalgo such as it was laid down by the Mixed Boundary Commission which met in conformity with the aforesaid treaty—it appears to me that both Governments are in complete accord as to the merits of this important question, and that there only remain to be arranged secondary questions and details.

Be pleased to accept, Mr. Secretary, the assurances of my very distinguished consideration.

M. ROMERO.

Hon. FREDERICK T. FRELINGHUYSEN, *etc. etc. etc.*

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *October 16, 1884.*

Señor DON MATIAS ROMERO,
&c., &c., &c.

SIR,

I have the honor to acknowledge the receipt of your note of the 9th instant, wherein you report that the Government of Mexico renounces its claim to the ownership of certain islands in the Rio Grande, lately the subject of correspondence with your legation, and to say that the decision of your government respecting the island of Morteritos, so called, was only what the President and this Department had good cause to expect from the well known high sense of justice which characterizes the Mexican Government and people.

Accept, Sir, &c.

FRED^K. T. FRELINGHUYSEN.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *October 16, 1884.*

Señor DON MATIAS ROMERO,
etc. etc. etc.

SIR:

I have the honor to acknowledge the receipt of your note of the 10th instant, calling attention to the proposition of the Government of Mexico, in view of the amicable adjustment of the lately disputed ownership of Morteritos Island and the accord which characterized the two governments in dealing with the question—looking to an international boundary convention made necessary because of the frequent recurrent changes in the course of the Rio Grande.

For the present I can only assure you that the subject will have attentive consideration, and that the Government of the United States is equally desirous with Mexico to do away with any possible causes of misunderstanding and to remedy, so far as may be practicable, the existing condition of affairs with regard to their boundary in that quarter.

Accept, Sir, etc.

FREDK. T. FRELINGHUYSEN.

Mr. Frelinghuysen to Mr. Morgan.

No. 672.

DEPARTMENT OF STATE,
WASHINGTON, *October 16, 1884.*

H. H. MORGAN, Esq.
&c. &c. &c.

SIR:

I herewith transmit, for your information, in connection with recent correspondence with your Legation, the enclosed copy of a note from the Minister of Mexico, here, of the 9th instant, stating that his government renounces its claim to the ownership of Morteritos island, so called, in the Rio Grande, near Roma, Texas.

In reply to Mr. Romero's note, I have expressed the gratification which this government felt at this decision and added that it was only what the President and this Department had good cause to expect from the well-known high sense of justice of the Mexican Government and People.

I am, Sir &c.

FRED^k. T. FRELINGHUYSEN.

Enclosure: Mr. Romero to Mr. Frelinghuysen, Oct. 9 '84.^a

Mr. Frelinghuysen to Mr. Morgan.

No. 673.

DEPARTMENT OF STATE,
WASHINGTON, *October 16, 1884.*

H. H. MORGAN, Esq.
&c. &c. &c.

SIR:

Adverting to the concluding portion of my instruction No. 609, of July 11th last, touching the proposition of the Mexican Government looking to a boundary Convention made necessary by the frequently recurring changes in the Rio Grande, I have now to enclose for your information, a copy of a note from the Minister of Mexico, here, of the 10th instant, renewing the request in view of the amicable adjustment of the lately disputed ownership of Morteritos island.

I have said to Mr. Romero that the measure will have attentive consideration, and have assured him that the Government of the United States is equally desirous with Mexico to do away with any possible causes of misunderstanding and to remedy, so far

[^a For this enclosure, see *supra*, p. 668.—Agent's note.]

as may be practicable, the existing condition of affairs with regard to their boundary in that quarter.

I am, Sir &c.

FRED^k. T. FRELINGHUYSEN.

Enclosure: Mr. Romero to Mr. Frelinghuysen, Oct. 10, '84.^a

Mr. Frelinghuysen to Mr. Morgan.

No. 681.

DEPARTMENT OF STATE,
WASHINGTON, November 4, 1884.

H. H. MORGAN, Esq.

Ĉc., Ĉc., Ĉc.

SIR:

The Mexican Minister at this capital, Señor Romero, is about returning to Mexico on leave of absence, proposing to spend some months there. As he has in several conferences indicated his purpose while at home to endeavor to influence his Government in the direction of examining existing conditions and considering new ones which shall facilitate the material and diplomatic intercourse of the countries, I deem it proper to confidentially communicate, for the information of the legation and for the personal guidance of Mr. Morgan when he shall return to take charge of his mission, a brief outline of some of the points in which Mr. Romero thinks that a comparison of the views of the two Governments may be advantageous.^b

* * * * *

Others matters of international interest have also been talked of between Mr. Romero and myself.

It is the desire of Mexico, and, I may observe, equally the desire of the United States, that some international agreement should be reached to meet all cases of dispute as to the true demarkation of the frontier which may grow out of any gradual or sudden changes in the channel of the Rio Grande from El Paso to the sea, where it marks (under the 5th Article of the treaty of Guadalupe Hidalgo) the limit between the two countries. Mr. Romero has made a proposal to this Government to negotiate a formal treaty, and the subject is now under consideration. Mr. Romero has been informed verbally of our desire to reach a harmonious agreement which shall be in accordance with international

[^a For this enclosure, see *supra*, p. 671.—Agent's note.]

[^b The omitted portions of this instruction are thought to be irrelevant. A certified copy of the entire instruction is, however, held at the disposal of the Commission.—Agent's note.]

precedents in questions of river boundaries and afford a just solution of the problem. Mr. Morgan may find it conducive to a good understanding to repeat these assurances.

* * * * *

I am, Sir &c.

FRED^K. T. FRELINGHUYSEN.

Mr. Frelinghuysen to Mr. Morgan.

DEPARTMENT OF STATE,
WASHINGTON, Nov. 8 1884.

PHILIP H. MORGAN, Esq., &c. &c. &c.

now in New York.

SIR:

On the 4th instant, a confidential instruction was sent to Mr. H. H. Morgan, No. 681, touching the pending questions with Mexico in which a better understanding by treaty or otherwise is desirable, and concerning which I have reason to believe that Mr. Romero during his approaching visit to Mexico on leave, will endeavor to aid in effecting a settlement.

The instruction, although addressed to the Chargé, is for your own confidential information. Nothing in that instruction is to be construed as indicating that Mr. Romero accepts, or proposes to advocate the contention of this Government as against his own. It simply acquaints you with Mr. Romero's recognition of the fact that certain grounds of difference exist, and, as an aid in bringing about an agreement, it formulates the principal points at issue, so that you may know what has been here said to Mr. Romero.

I am, Sir &c.

FRED^K. T. FRELINGHUYSEN.

Enclosure: Mr. Frelinghuysen to Mr. Morgan,^a No. 681, November 4, 1884.

Señor Romero to Mr. Frelinghuysen.

LEGACION MEXICANA,
WASHINGTON, D. C. *Noviembre 21 de 1884.*

Señor SECRETARIO:

Deseando el Gobierno de México corregir la impresion que pudiera causar la lectura de la nota que ese Departamento tuvo á bien dirigir al Sr. Romero el 16 de Octubre próximo pasado, en respuesta á una de este Sr., de 9 del mismo mes comunicando la

[^a For this enclosure see supra, p. 674.—Agent's note.]

resolucion del Presidente de los Estados Unidos Mexicanos en el asunto de la isla de Morteritos, en cuya nota se habla de la *renuncia de ciertas islas* en el cauce del Rio Bravo, me ha dado instrucciones para manifestar á V., como tengo la honra de hacerlo, que el Gobierno de México no ha renunciado á la propiedad de *ciertas islas*, sino simplemente ha reconocido en virtud de los informes que le ministró esta Legacion sobre el particular, y de la decision pericial de la Secretaría de Fomento, que no tiene derecho á *la isla* de Morteritos.

Aprovecho esta ocasion para renovar á V., Señor Secretario, las seguridades de mi muy distinguida consideracion.

CAYETANO ROMERO.

Hon. FREDERICK T. FRELINGHUYSEN,
etc., etc., etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, D. C., Nov. 21, 1884.

Mr. SECRETARY:

As the Government of Mexico desires to correct the impression, which might be produced by the tenor of the note, which your Department kindly transmitted to Mr. Romero, on the 16th October last, in answer to one from the latter gentleman of the 9th of the same month, communicating the decision of the President of the United States of Mexico, in the matter of the island of Morteritos, in which note mention is made of the *renunciation of the claim to certain islands* in the channel of the Rio Bravo, I have been instructed to inform you, as I have the honor of now doing, that the Government of Mexico has not renounced its claim to the ownership of *certain islands*, but has merely admitted, in view of the information transmitted to it in the matter by this Legation, and of the official decision of the Department of Public Works that it has no right *to the island* of Morteritos.

I avail myself of this opportunity, Mr. Secretary, to renew the assurances of my highest consideration.

CAYETANO ROMERO.

Hon. FREDERICK T. FRELINGHUYSEN.
etc., etc., etc.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *December 4, 1884.*

Señor Don CAYETANO ROMERO,
etc. etc. etc.

SIR:

I have the honor to acknowledge the receipt of your note of the 21st ultimo, in which you take exception to an expression in my note of the 16th of October last, and say that the Government of Mexico had not relinquished jurisdiction over "certain islands" in the Rio Grande but over "Morteritos" simply.

The original claim of Mexico, as you well know, was to the possession of "Morteritos and Sabinos Islands," so called, numbered respectively "12 and 13" in the Rio Grande. An examination of the charts showed that these two names never had any existence in fact, but that they had been improperly applied to Beaver Islands, twin islands, in that river, which had been awarded to the United States by the Commission of 1848. The expression "certain islands" had reference to the original claim. The examination, it is true, further established that an island, "Sabinos" belonged to Mexico, but this was neither numbered 12 nor 13 on the charts, and from its location it seems improbable that it should have been confounded with "Sabinos," Sabinos was, consequently, never in dispute.

I need not assure you that the United States has no wish to claim any thing beyond that which properly belongs to it, and that the phrase "certain islands" while used in the sense I have explained, may be understood as without prejudice to any possible rights attaching to Mexico. If such cases exist, the recently signed treaty of November 12, 1884, for a more definite determination of our common boundary line, will when completed by ratification, exchange and proclamation, afford bases for a final adjustment of the question involved.

Accept, Sir, etc.

FREDK. T. FRELINGHUYSEN.

Señor Romero to Mr. Frelinghuysen.

LEGACION MEXICANA,
WASHINGTON, *Diciembre 5 de 1884.*

Señor SECRETARIO:

He tenido la honra de recibir la atenta nota de V. fechada ayer, en que al contestar la que le dirijí, por encargo de la Secretaría de

Relaciones Exteriores de México, el 21 de Noviembre próximo pasado, con objeto de llamar la atencion de ese Departamento al sentido de la frase que contiene la comunicacion que tuvo V. á bien enviar al Sr. Romero el 16 de Octubre anterior respecto de la renuncia de ciertas islas en el Rio Grande por parte de México, se sirve V. manifestarme que dicha frase se refiere á la reclamacion original que hizo México sobre el particular, y que comprendía las islas de Morteritos y Sabinitos, en la creencia de que estas eran las marcadas en los planos de la Comision de límites de 1853, con los números 12 y 13; pero que el exámen de dichos planos demuestra que no han existido en realidad esos nombres que se les dieron impropriamente y que se refieren á las del Castor (Beaver Island) islas gemelas que fueron asignadas á los Estados Unidos por la Comision de 1848; que despues se descubrio que la isla de Sabinos pertenecía á México, pero que esta no era ni la número 12, ni la 13 que aparecen en los planos citados, ni era probable que hubiera podido confundirse por su posesion con la de Sabinitos.

Agrega V. en seguida que cree innecesario asegurar que los Estados Unidos no tienen deseo alguno de reclamar sino lo que propiamente les pertenece y que la frase, cuyo sentido se sirve V. explicar, debe entenderse que no perjudica los derechos que México pueda tener en el particular; pero que si tales derechos existen el tratado firmado el 12 de Noviembre de 1884, para la mejor demarcacion de la linea divisoria entre los dos paises, proporcionará, una vez que sea ratificado, cangeado y promulgado, las bases para el arreglo final de semejantes cuestiones.

Al participar á V. en respuesta, como tengo la honra de hacerlo, que trasmitiré su citada nota á la Secretaría de Relaciones Exteriores de México, para su conocimiento debo manifestarle que estoy seguro de que el Gobierno de México no ha tenido ni la mas ligera idea de herir en manera alguna la susceptibilidad del de los Estados Unidos en este negocio, y que su único objeto fué hacer constar que la resolucion que tomó en el particular, fundada en el reconocimiento de que no tenía derecho á la isla de Morteritos se refería á esta solamente, pues aunque la del Castor, como la llaman los Estados Unidos está formada de dos islas pequeñas, siempre se ha considerado como una sola y es ademas la única que estaba en disputa.

Ahora por lo que respecta á la de Sabinitos, al hablar de ella esta Legacion, se ha referido siempre á la de Sabinos que aparece marcada en dichos planos con el número 14 y perteneciente á

México y ese Departamento lo mismo que el Gral. Emory le han dado indistintamente uno ú otro nombre.

Aprovecho la ocasion para renovar á V., Señor Secretario, las seguridades de mi muy distinguida y atenta consideracion.

CAYETANO ROMERO.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *December 5, 1884.*

Mr. SECRETARY:

I have had the honor to receive your esteemed note, dated yesterday in answer to the one I sent you by direction of the Ministry of Foreign Relations of Mexico, on the 21st of November ultimo, for the purpose of calling the attention of your Department to the meaning of an expression contained in the communication sent by you to Sñ Romero on the 16th of October last in respect to the renunciation of certain islands in the Rio Grande on the part of Mexico.

You are pleased to show me that said expression refers to the original claim made by Mexico in the case, and that meant the islands of Morteritos and Sabinitos, in the belief that these were those marked in the plans of the Boundary Commission of 1853, with the numbers 12 and 13; however, that the examination of said plans show that these numbers did not in reality exist, that they were improperly given, and that reference was made to the Castor islands (Beaver Island) twin islands that were assigned to the United States by the Commission of 1848; that since then it was discovered that the island of Sabinos belonged to Mexico; that however the latter was neither number 12 or 13 that appear in the said plans, and it was not probable that it could have been mistaken, on account of its position, for that of Sabinitos.

You add that you believe it unnecessary to assure that the United States have no desire to claim anything but what belongs to them properly and that the expression, the sense of which you are pleased to explain, must be understood as in no way injuring the rights that Mexico may have in the case; that besides, if such rights exist, the treaty signed on the 12th of November 1884, for a better demarcation of the dividing line between the two countries, will regulate, as soon as it is ratified exchanged and promulgated, the bases for the final settlement of similar questions.

On acknowledging your answer, which I have the honor to do, I shall transmit your said note to the Ministry of Foreign Relations

of Mexico for its knowledge; I must assure you that I am certain that the Government of Mexico has not the slightest idea of wounding in any manner the susceptibility of the Government of the United States in this affair, and that its only purpose was to make it appear that the resolution taken in the case, founded on the acknowledgment that it had no right on the island of Morteritos, referred to this one alone, also that the Castor one (Beaver) as the United States call it, is formed of two little islands which have always been considered as one, and is besides the only one in dispute.

As regards the island of Sabinitos, in speaking of it, this legation has always had reference to Sabinos, which appears on said plans marked with number 14 and belonging to Mexico, and your Department as well as General Emory have given it indistinctly the one or the other name.

I avail myself of this occasion to renew to you, Mr. Secretary, the assurances of my highest consideration.

CAYETANO ROMERO.

Mr. Bayard to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *March 21, 1885.*

Señor Don MATIAS ROMERO,
etc. etc. etc.

SIR:

I have the honor to apprise you that the Senate of the United States in Executive Session, on the 18th instant, gave its advice and consent to the ratification of the Convention between the United States of America and the United States of Mexico, touching the boundary line of the two countries where it follows the bed of the Rio Grande and the Rio Gila, concluded November 12, 1884.

At the earliest possible date, of which I will inform you later, I will be prepared to make the exchange of ratifications, as provided by Article VI.

Accept, Sir, etc.,

T. F. BAYARD.

Señor Romero to Mr. Bayard.

LEGACION MEXICANA,
WASHINGTON, *21 de Marzo de 1885.*

Señor SECRETARIO:

He tenido la honra de recibir la nota de Ud., de esta fecha, en la que se sirve informarme que el Senado de los Estados Unidos dió su consejo y consentimiento, en sesion ejecutiva de 18 del corriente, para la ratificacion de la Convencion entre los Estados Unidos Mexicanos y los Estados Unidos de América, respecto de la linea fronteriza entre los dos paises, que sigue el lecho del Rio Bravo del Norte y del Rio Gila, firmada el 12 de Noviembre de 1884, y me participa Ud. ademas, que me avisará mas tarde la fecha en que esté Ud. dispuesto á hacer el canje de ratificaciones, conforme lo estipulado en el artículo VI.

Tengo la honra de expresar á Ud. mi reconocimiento por su atencion al darme este aviso, informándole á la vez, que hoy lo trasmito á la Secretaría de Relaciones Exteriores de los Estados Unidos Mexicanos.

Entiendo que el Senado de México no ha ratificado aún dicha Convencion, la cual creo que se le someterá en su período de sesiones que comienza el 1º de Abril próximo.

Sírvase Ud., aceptar, Señor Secretario, las seguridades de mi muy distinguida consideracion.

M. ROMERO.

HON. THOMAS F. BAYARD,
etc., etc., etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *March 21, 1885.*

Mr. SECRETARY:

I have had the honor to receive your note of this date in which you are pleased to inform me that the Senate of the United States has given its advice and consent in Executive Session of the 18th instant to the ratification of the Convention between the United Mexican States and the United States of America, concerning the frontier line between the two countries, which follows the bed of the Rio Bravo del Norte and of the Rio Gila, signed November 12, 1884, and you further advise me that you will later give me notice of the date on which you may be disposed to effect the exchange of ratifications, conformably to the stipulation in Article VI.

I have the honor to express to you my appreciation for your attention in giving me this information, and of apprising you at the same time that I am today transmitting it to the Secretary of Foreign Relations of the United Mexican States.

Understanding that the Senate of Mexico has not yet ratified said Convention I believe that it will be submitted during the sessions which begin April the first next.

Be pleased to accept, Mr. Secretary, the assurances of my very distinguished consideration.

M. ROMERO.

Hon. THOMAS F. BAYARD,
etc. etc. etc.

Señor Romero to Mr. Bayard.

LEGACION MEXICANA,
WASHINGTON, 26 de Diciembre de 1885.

Señor SECRETARIO:

Tengo la honra de remitir á Usted, copia de un decreto expedido por el Senado de los Estados Unidos Mexicanos, en sesion de 11 del corriente, en el cual se aprueba con algunas modificaciones, el tratado firmado en esta ciudad, el 12 de Noviembre de 1884, entre los Estados-Unidos Mexicanos y los Estados-Unidos de América, con objeto de fijar reglas para decidir las cuestiones que puedan presentarse á causa de las desviaciones de los rios que sirven de límite á las dos Repúblicas.

Las modificaciones hechas á dicho tratado por el Senado Mexicano, no son esenciales, pues consisten principalmente en rectificar la equivocacion en que se incurrió, al mencionar al Rio Gila como parte de la linea divisoria, amitiendo al Rio Colorado, y en rectificar una incorreccion de la traduccion española.

Suplico á Usted, Señor Secretario, me haga el favor de informarme si el Gobierno de los Estados-Unidos de América, acepta las modificaciones referidas, para comunicarlo á mi Gobierno.

Sirvase Usted aceptar, Señor Secretario, las seguridades de mi muy distinguida consideracion.

M. ROMERO.

Anexo: Copia del decreto del Senado Mexicana, de 11 de Diciembre de 1885.

Hon. THOMAS F. BAYARD,
etc., etc., etc.

[Inclosure.]

Un Sello: "Secretaría de Estado y del Despacho de Relaciones Exteriores.—Mexico."—Departamento Político—Seccion de América.—

El Senado, de los Estados-Unidos-Mexicanos, usando de la facultad que le concede la fraccion I. letra B. del artículo 72 de la Constitucion política de la República, decreta:

Artículo único.—Se aprueba el tratado concluido en Washington con fecha 12 de Noviembre de 1884, entre el Enviado Extraordinario y Ministro Plenipotenciario de los Estados-Unidos Mexicanos y el Secretario de Estado de los Estados-Unidos de América, con objeto de fijar reglas para decidir las cuestiones que puedan presentarse á causa de las desviaciones de los rios que sirven de límite á las dos Repúblicas; con las modificaciones siguientes:

I. En el encabezamiento del tratado dónde dice: "rio Gila," léase: "*Rio Colorado.*"

II. Las primeras once líneas del preámbula quedarán del modo siguiente:

"Por cuánto en virtud del artículo V del tratado de Guadalupe Hidalgo, concluido el 2 de Febrero de 1848, entre los Estados-Unidos Mexicanos y los Estados-Unidos de América, y el artículo 1º del de 30 de Diciembre de 1853, algunas porciones de la línea divisoria entre los dos países, siguen el centro del canal del rio Grande y del rio Colorado," con el fin &ª.

III. En las líneas décima sétima y décima octava, párrafo primero del preámbulo, texto inglés, dónde dice: "United States of Mexico," se leerá; "*United States of America.*"

IV. En las últimas cuatro líneas, artículo 3º, del texto español, dónde dice: "cuando se pongan lozas de piedra ó de otro material que no proyecte sobre la corriente del rio," se leerá de esta manera: "*cuando se pongan revestimientos de piedra ó de otro material que no proyecten indebidamente sobre la corriente del rio.*"

V. En el artículo V, en lugar de "rio Gila," dira: "*rio Colorado.*"

Dado en el Salon de Sesiones.—México, á once de Diciembre de mil ochocientos ochenta y cinco. (firmado)—Miguel Utrilla. S. P.—Pedro Sanchez Castro.—Senador Secretario.—

Guillermo de Landa y Escandon. Senador Secretario.—Es copia. México, Diciembre 15 de 1885. (firmado) Eduardo Garay, O. M. Es copia: Washington, Diciembre 26 de 1885.

CAYETANO RÓMERO.

Srio.

[Translation.]

LEGATION OF MEXICO,
WASHINGTON, *December 26th, 1885.*

Mr. SECRETARY:

I have the honor to send you a copy of a decree issued by the Senate of the United States of Mexico, in its session of the 11th instant, approving, with certain modifications, the treaty signed in this city November 12th, 1884, by the United States of Mexico and the United States of America, with a view to establishing rules for the decision of such questions as may arise owing to changes in the channels of the rivers which serve as limits between the two Republics.

The modifications made in the said treaty by the Mexican Senate are not essential, since they consist mainly in the rectification of the mistake made when the Gila river was mentioned as a part of the boundary line, the Colorado river being omitted, and in the correction of an error in the Spanish translation.

I beg you, Mr. Secretary, to do me the favor to inform me whether the Government of the United States of America accepts the modifications in question, that I may advise my Government.

Be pleased to accept, Mr. Secretary, the assurances of my very distinguished consideration.

M. ROMERO.

Hon. THOMAS F. BAYARD, *etc., etc., etc.*

Enclosure.—Copy of the decree of the Mexican Senate of December 11th, 1885.

[Inclosure.]

[Translation.]

A seal: "Department of State and of Foreign Relations.—Mexico." Political Department.—Section of America.

The Senate of the United States of Mexico, in the exercise of the power granted to it by division I, letter B of article 72 of the political Constitution of the Republic, hereby decrees as follows:

Sole Article. The treaty concluded at Washington under date of November 12th, 1884, by the Envoy Extraordinary and Minister Plenipotentiary of the United States of Mexico and the Secretary of State of the United States of America, for the purpose of establishing rules for the decision of such questions as may arise owing to changes in the channels of the rivers which serve as limits between the two Republics.

I. In the heading of the treaty, where it says: "Gila river," read "*Colorado river.*"

II. The first eleven lines of the preamble are to read as follows:
 "Whereas, in virtue of the Vth article of the treaty of Gaudalupe Hidalgo, between the United States of Mexico and the United States of America, concluded February 2, 1848, and of the 1st article of that of December 30th, 1853, certain parts of the dividing line between the two countries follow the middle of the channel of the Rio Grande and the Colorado river," to avoid, etc.

III. In lines seventeen and eighteen, paragraph first of the preamble, English text, where it says: "United States of Mexico," read "*United States of America.*"

IV. In the last four lines of article III, in the Spanish text, where it says: "Cuando se pongan losas de piedra ó de otro material que no proyecte sobre la corriente del rio," the reading shall be as follows: "*cuando se pongan revestimientos de piedra ó de otro material que no proyecten indebitamente sobre la corriente del rio.*" (The first of the foregoing passages, in English, is as follows: "by facing of stone or other material not projecting into the current of the river;" and the second: "by revetments of stone or other material not unduly projecting into the current of the river.")

V. In article V, instead of "Gila river," read "Colorado river."

Done in the Hall of Sessions. Mexico, December 11th, one thousand eight hundred and eighty-five. (Signed) Miguel Utrilla, S. P. Pedro Sanchez Castro, Senator Secretary.—Guillermo de Landa y Escandon, Senator Secretary.—A copy. Mexico, December 15th, 1885. (signed) Eduardo Garay, Chief Clerk. A copy. Washington, December 26th, 1885.

CAYETANO ROMERO.

Sec'y.

Mr. Porter to Señor Romero.

DEPARTMENT OF STATE,

WASHINGTON, *February 3, 1886.*

Señor Don MATIAS ROMERO,

etc. etc. etc.

SIR:

I have the honor to acknowledge the receipt of your note of the December 26, 1885, concerning the approval by the Government of Mexico, with certain modifications, of the convention concluded in this city November 12, 1884, in regard to the boundary

line between the two countries where it follows the bed of the Rio Grande and the Rio Gila.

A copy of your note and of its accompaniment, with the Convention, in the original, will be at once submitted by the President to the Senate for its further consideration and Constitutional action.

Accept, Sir, etc.,

JAS. D. PORTER,
Acting Secretary.

Mr. Bayard to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *July 1, 1886.*

Señor Don MATIAS ROMERO,
etc. etc. etc.

SIR:

I have the honor to apprise you that the Senate of the United States has advised and consented to the modifications made by the Mexican Senate, December 11, 1885, in the Convention concluded November 12, 1884, between the United States and Mexico and ratified by the Senate March 18, 1885, touching the boundary line between the two countries where it follows the bed of the Rio Grande and the Rio Colorado, I enclose for convenient reference, a copy of the Senate's resolution of June 23, 1886, upon the subject.

The Convention is now being engrossed in order to effect the necessary exchange of ratifications, which shall take place at the earliest practicable moment. Of the date when this can be done, you will be subsequently advised.

Accept, Sir, etc.,

T. F. BAYARD.

Enclosures: Copy of Senate's resolution mentioned.

[Inclosure.]

IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES.

June 23, 1886.

Resolved: (two thirds of the Senators present concurring.) That the Senate advise and consent to the modifications made by the Senate of the United States of Mexico December 11, 1885 in the Convention concluded November 12, 1884, between the United States of America and the United States of Mexico and ratified by the Senate March 18, 1885, touching the boundary line between

the two Countries where it follows the bed of the Rio Grande and the Rio Colorado; which modifications are as follows:

In the heading of the Convention Strike out [Gila] and insert the word *Colorado*.

In the Seventh line of the preamble after "1848", insert the words "*and of the first Article of that of December 30th 1853*"; and strike out the word [Gila] in the Eleventh line, after the word "Rio" and insert in lieu thereof the word *Colorado*.

Strike out the word [facings] in the twenty-second line of Article III, and insert in lieu thereof the word *revetments*.

Strike out the word [Gila] after the word "Rio" in the twenty-fourth line of Article V. and insert in lieu thereof the word *Colorado*.

Attest:

ANSON G. MCCOOK,
Secretary.

Señor Romero to Mr. Bayard.

LEGACION MEXICANA,
WASHINGTON, 1º de Julio de 1886.

Señor SECRETARIO:

He tenido la honra de recibir la nota de Usted, de hoy, en la que se sirve informarme que el Senado de los Estados Unidos, aconsejó y consintió en acuerdo aprobado el 23 de Junio próximo pasado, en las modificaciones hechas por el Senado Mexicano el 11 de Diciembre de 1885, á la convención concluida en esta ciudad el 12 de Noviembre de 1884, entre los Estados Unidos Mexicanos y los Estados Unidos de América, ratificada por el Senado de este país, el 18 de Marzo de 1885, con objeto de fijar reglas para descidir las cuestiones que puedan presentarse respecto de la línea divisoria entre los dos países, en la parte que sigue el lecho de los rios Bravo del Norte y Colorado.

Se sirve Usted manifestarme además, que se está poniendo en limpio la convención, con objeto de proceder al canje de sus ratificaciones, y que posteriormente me dirá Usted la fecha en que esto debe tener lugar.

Creo conveniente manifestar á Ud. que segun le avisé en mi nota de 26 de Diciembre de 1885, mi Gobierno me mandó copia de las modificaciones con que dicho tratado habia sido ratificado por el Senado Mexicano, con instrucciones de que preguntara yo al Gobierno de los Estados Unidos, si serían aceptables para él, sin haberme remitido entónces ni despues, el ejemplar del tratado destinado á verificar el canje de sus ratificaciones.

Al saber ahora que las modificaciones acordadas por el Senado Mexicano han sido aceptadas por el Senado de los Estados Unidos, me dirijo ya por el cable á mi Gobierno, comunicándole este hecho y recomendándole me mande el ejemplar del tratado destinado al canje. Luego que lo reciba, tendré la honra de comunicarlo á Usted, para que procedamos á hacer el canje de ratificaciones.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi muy distinguida consideracion.

M. ROMERO.

Hon. THOMAS F. BAYARD,
etc., etc., etc.

[Translation.]

LEGATION OF MEXICO.

WASHINGTON, *July 1st, 1886.*

Mr. SECRETARY:

I have had the honor to receive your note of this day's date, whereby you are pleased to inform me that the Senate of the United States has advised and consented, by a resolution approved June 23d, 1886, to the modifications made by the Mexican Senate on the 11th of December, 1885, in the convention concluded in this city November 12th, 1884, between the United States of Mexico and the United States of America, and ratified by the Senate of this country May 18th, 1885, for the purpose of establishing rules for the decision of questions that may arise concerning the boundary line between the two countries, where that line coincides with the bed of the Rio Bravo del Norte and that of the Colorado.

You are likewise pleased to inform me that a copy is being made of the convention, so that the ratifications may be exchanged, and that you will subsequently apprise me of the date when such exchange is to take place.

I think it proper for me to inform you that, as I stated in my note of December 26th, 1885, my Government sent me a copy of the modifications with which that treaty had been ratified by the Mexican Senate, and, at the same time, instructed me to inquire of the United States Government whether it was willing to accept the said modifications. It did not send me at that time, nor has it since sent me, a copy of the treaty intended for the exchange of its ratifications.

Since I have now learned that the modifications adopted by the Mexican Senate have been accepted by the Senate of the United States, I shall at once address my Government by cable, informing

it of this fact and requesting it to send me an exchange copy of the treaty. As soon as I receive said copy, I shall have the honor so to inform you, in order that we may proceed to the exchange of the ratifications.

Be pleased to accept, Mr. Secretary, the assurances of my very distinguished consideration.

M. ROMERO.

Hon. THOMAS F. BAYARD, *etc., etc., etc.*

Señor Romero to Mr. Bayard.

LEGACIÓN MEXICANA,

WASHINGTON, *4 de Setiembre de 1886.*

Señor SECRETARIO: Tengo la honra de informar á Ud. que he recibido el texto destinado al Gobierno de los Estados Unidos, del tratado firmado en esta ciudad el 12 de Noviembre de 1884, para resolver las dificultades que se susciten con motivo del cambio de cauce de los Ríos Bravo y Colorado, en la parte que sirve de límite entre México y los Estados Unidos y ademas el pleno poder respectivo para hacer el canje.

Estaré por lo mismo dispuesto á celebrar este, tan luego como se sirva Ud. avisarme que por su parte está listo para el mismo objeto.

Sírvase Ud. aceptar, Señor Secretario, las seguridades de mi mas distinguida consideración.

M. ROMERO.

Hon. THOMAS F. BAYARD, *etc.*

[Translation.]

MEXICAN LEGATION,

WASHINGTON, *September 4, 1886.*

Mr. SECRETARY: I have the honor to inform you that I have received the text, intended for the Government of the United States, of the treaty signed in this city on November 12, 1884, for the settlement of the difficulties arising from the change of course of the Rio Grande and Colorado River in the part forming the boundary between Mexico and the United States together with the full powers required to effect the exchange.

I am also disposed to effect the exchange as soon as you may be pleased to advise me that you are, for your part, ready to do so.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. THOMAS F. BAYARD, *etc.*

Mr. Bayard to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *September 10, 1886.*

Señor DON MATIAS ROMERO,
etc. etc. etc.

SIR:

I have the honor to acknowledge the receipt of your note of the 4th instant, saying that you are prepared to effect the necessary exchange of ratifications of the boundary treaty signed November 12, 1884, whenever agreeable to myself.

I take pleasure in enclosing the exchange copy of this government and beg that you will have the kindness to cause it to be carefully compared with the Mexican copy and returned to this Department, if agreeable to yourself, either Monday or Tuesday next, the 13th or 14th instant, by 12 o'clock, m, when I will be glad to effect the necessary exchange with yourself.

Accept, Sir, etc.,

T. F. BAYARD.

Enclosure: U. S. exchange copy mentioned.^a

PERIOD 1887-1907.

Señor Romero to Mr. Bayard.

LEGACIÓN MEXICANA,
WASHINGTON, *Diciembre 6 de 1887.*

Señor SECRETARIO:

He recibido instrucciones del Señor Mariscal, Secretario de Relaciones Exteriores de los Estados Unidos Mexicanos, fechadas en la ciudad de México, el 18 de Noviembre próximo pasado, para informar á Usted que el Gobernador del Estado de Chihuahua le dirigió una comunicación el 20 de Agosto último, en que se inserta un oficio del Jefe Político del Distrito de Bravos, cuya cabecera es El Paso del Norte, consignando un acuerdo del Ayuntamiento de esa ciudad en que se hacen presentes los inconvenientes que resultarían á la misma, tanto en su salubridad como en sus derechos si se llevase á cabo un proyecto de desagüe que parece ha sido autorizado por el Ayuntamiento de El Paso, Texas.

Segun las publicaciones hechas por los periódicos de El Paso, Texas, referentes á este asunto, el proyecto consiste en construir una atarjea principal, que pasando por terrenos que se considera

^a [Inclosure not printed. For text of treaty see supra, p. 67.—Agent's note.]

pertenecen á México, aunque están ahora del lado izquierdo del Rio Bravo del Norte, desemboque en ese Rio. Las objeciones que se hacen contra ese proyecto, consisten, principalmente, en que siendo el Rio Bravo del Norte un rio internacional, no parece que puedan construirse en él obras que afecten la salubridad de las poblaciones situadas en sus riberas, sin consentimiento de los dos Gobiernos interesados, prescindiendo de la falta de derecho que habia de parte del Ayuntamiento de El Paso, Texas, para construir una obra sobre un terreno que se crée pertenece á México.

El Ayuntamiento de Paso del Norte teme que las inmundicias que se descarguen en el rio por la atargea principal que se intenta desemboque en él, infecten á los habitantes de aquella ciudad.

Con este motivo el Señor Mariscal, me ha dado instrucciones para que ocurra yo al Gobierno de los Estados Unidos de América, á fin de procurar que no se lleve á efecto un proyecto que tanto debe perjudicar los derechos y la salubridad de las poblaciones mexicanas, situadas sobre el rio Bravo, y especialmente la de Paso del Norte.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. THOMAS FRANCIS BAYARD,

etc etc etc.

[Translation.]

LEGATION OF MEXICO,
WASHINGTON, *December 6, 1887.*

Mr. SECRETARY:

I have received instructions from Mr. Mariscal, Secretary of Foreign Relations of the United States of Mexico, dated City of Mexico, November 18, 1887, to inform you that the Governor of the State of Chihuahua addressed a communication to him on the 20th of August last, wherein was inserted another communication from the Political Chief of the District of Bravos, the chief town of which is El Paso del Norte, quoting a resolution passed by the Municipal Board of that city, stating the inconveniences which would accrue to the same, both as regards the public health and its rights, if a plan for draining were carried out, which appears to have been authorized by the Municipal authorities of El Paso, Texas.

According to the statements published by the newspapers of El Paso, Texas, in relation to this matter, the plan provides for the

construction of a large drain-pipe, which is to pass through lands that are considered as belonging to Mexico, although they are now on the left side of the Rio Grande, and is to serve as an outlet into that river. The objections to this plan are, mainly, that as the Rio Grande is an international river, it does not seem proper for works to be constructed on its banks, affecting the health of the towns lying opposite, without the consent of the two Governments interested, leaving out of consideration the lack of right on the part of the city authorities of El Paso, Texas, to construct such a work on land that is thought to belong to Mexico.

The Municipal Board of El Paso del Norte fears that the filth which will be emptied into the river by the drain-pipe which is to lead to it, will seriously affect the health of the inhabitants of that city.

Mr. Mariscal has consequently instructed me to address the Government of the United States of America, for the purpose of endeavoring to prevent the accomplishment of a plan which must prove so prejudicial to the rights and to the health of those Mexican towns which are situated on the Rio Grande, especially Paso del Norte.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Honorable THOMAS FRANCIS BAYARD,
 &c., &c., &c.

Mr Bayard to Señor Romero.

DEPARTMENT OF STATE,
 WASHINGTON, *January 3, 1888.*

Señor Don MATIAS ROMERO,
etc. etc. etc.

SIR:

I have the honor to acknowledge the receipt of your note of the 6th ultimo, complaining, by direction of your Government, against the construction of a large drain-pipe, authorized by the municipal authorities of El Paso, Texas, to empty into the Rio Grande as detrimental to the public health of El Paso del Norte, Mexico.

A copy of your note has been brought to the attention of His Excellency L. C. Ross, Governor of the State of Texas.

Accept, Sir, etc.,

T. F. BAYARD.

Mr. Bayard to Mr. Connery.

No. 240.]

DEPARTMENT OF STATE,

WASHINGTON, *January 16, 1888.*

THOS. B. CONNERY, Esqre.

&c. &c. &c.

SIR:

I enclose for your information, copies of correspondence between the Honorable Wm. H. Crain, a member of Congress from Texas and myself, touching the need of practically determining the boundary between the United States and Mexico where it follows the channel of the Rio Grande or Bravo.

You may incidentally, and without making any proposition to the Mexican Government, inquire and report what machinery, if any, exists in Mexico for determining questions arising under the Convention of November 12, 1884.

In conclusion, I desire to add that copies of this correspondence have also been sent to the Secretary of the Treasury, for his information and such expression of his views as he may deem necessary.

I am, &c.

T. F. BAYARD.

Enclosures:

Mr. Crain to Mr. Bayard, Jan. 9, 88—Encl.

“ Bayard “ “ Crain “ 12 “ “

[Inclosure 1.]

Mr. Crain to Mr. Bayard.

HOUSE OF REPRESENTATIVES, U. S.,

WASHINGTON, D. C., *Jan. 9, 1888.*

To The Honorable THOS. F. BAYARD,

Secretary of State

SIR:

I have the honor to submit for your consideration the inclosed communication from Mr. J. J. Cocke, Collector of Customs of the District of Brazos Santiago in the State of Texas, in which he forcibly presents reasons why there ought to be a treaty between Mexico and the United States for the purpose of establishing the boundary between the two countries.

Your early attention to this subject is earnestly invoked.

I have the honor, Sir, to remain your obt. servt.,

W. H. CRAIN,

M. C., Texas.

Sub-enclosure.]

Mr. Cooke to Mr. Crain.

CUSTOM-HOUSE, BROWNSVILLE, TEXAS,
Collector's Office, Dec. 31st, 1887.

Hon W. H. CRAIN M. C.
Washington D. C.

DEAR SIR.

I lately applied to the Hon Sec. of the Treas. for an increase of the force of Mounted inspectors for the District of Brazos Santiago, and my application was refused for economical reasons. Since then the pay of all the Mounted inspectors and clerks has been reduced on similar grounds, and for lack of the necessary appropriation by Congress. on this last I hope you will make a note and try to secure the necessary amount in future. But as to the inspectors, I think it a hardship upon them to work for less pay, when they have less assistance and less rewards of compensation than before.

This District failed to pay expenses last year, but I do not think that the Mt'd inspectors had anything to do with its in my opinion, the revenue derived from this district would not be *materially* diminished if there were no Mt'd inspectors except one at each sub-port. The District would then pay Expenses, but the business men of all South Western Texas would be ruined and the people generally become demoralized through continuous violations of law. The honest importers would continue to make entry according to law, until they found it did not pay, but the bulk of the goods and stock sold on this side would be brought from the "Free Town" of Tamaulipas, where every thing is cheaper. With an increase of force a good deal of the smuggling could be stopped. But having failed to get it, the only other remedy that suggests itself at present is a decrease of the distance to be traveled by the Mt'd Inspectors. This can be affected only by a change in the boundary line of the two Countries the U. S. & Mexico, to the actual Channel of the Rio Grande as it now runs, and subjecting the numerous "bancos" or cut offs to the Jurisdiction of the U. S. This would be a partial remedy for the evil but would be of great advantage in the administration of the criminal as well as the custom laws, and therefore I wish to call your attention to the anomalous condition of the boundary between the two countries along the Lower Rio Grande.

The actual boundary line at the time of the treaty of Guadalupe Hidalgo and the survey made thereunder, was the center of the

channel of the river at that time. Since then no man knows where it is. For want of that knowledge with a degree of accuracy that would satisfy the court, the most noted smuggling case was lost by the Govt. at the last term of U. S. Dist. Court in this city, and every other case here lost in like manner if the defendant can hire a good lawyer and make the point of "boundary unknown."

The bed of the Rio Grande is constantly changing as well by erosion and accretion as by sudden evulsion and cutting new channels abandoning the old ones. Within the past ten years I have known the Rio Grande to move its bed one mile by simple erosion and accretion and cut offs or "bancos" of from 20 to 200 acres in extent to be made in 48 hours. Some of these cut offs continue and increase by deposit from the river, others have been swept entirely away. Under these circumstances it is impossible for any one (and especially a smuggler when caught,) to know where the boundary is, and it is impossible to convict any man who smuggles from a banco unless caught a long way off from it. There is no survey made nor record kept of the time and place of a cut off. And generally no one can say whether such "banco" or cut off is greater or less in extent now than then.

The so called "Morteritos treaty" of Nov. 12, 1884 proclaimed Sept. 14, 1886 is perfectly worthless. Though framed apparently for the express purpose of defining the boundary, it does not do it any more effectually than the former treaty. The Mexican diplomat as usual got away with the "gringo". That treaty declares that "boundary shall be the centre of the normal channel with any changes caused by erosion or accretion, any other change by cutting a new bed etc. shall produce no change in the boundary as fixed in 1852, but the line shall continue in the middle of the old bed even when it becomes dry." Right there lies the trouble. Who is to determine where the old bed's middle is? When there are two or three old beds, how is it to be decided which was abandoned by the river before 1852 and which since.

These bancos with their uncertain boundaries offered safe retreats for smugglers thieves kidnappers, murderers and every class of criminals, as well as bases of supplies from which to carry on their operations free from interference from either Government. Liquors and tobacco and all kinds of portable merchandise are taken there and smuggled into Texas as opportunity offers. The two inspectors at Santa Maria lately have positive information of a hundred gallons of Mescal in the Bolsa Banco ready to be

brought over. They watched day and night for it but could not catch it. While they were on one side the liquor went out on the other, and was consumed at some big Christmas "bailes" (dances) about 15 miles in the country. That is one instance when the officers knew of the smuggling and could not prevent it. I could give you a hundred. If these nests were broken up smuggling would be greatly reduced. I think the only way to do it is to make a new treaty defining the boundary between Mexico and the U. S. to be the channel of the Rio Grande and giving to the U. S. and the State of Texas, both civil and criminal Jurisdiction over the "bancos" or cut off, on this side, ownership of the land to be settled by other provisions of treaty or courts provided for thereunder. This would enable the mtd. inspectors to ride through and examine the bancos instead of going around on the outside and see nothing, besides making a saving in distance travelled of from one to four miles. The Texas cut offs on the Mexican side should be left under the political jurisdiction of Mexico, all dutiable articles in either country should be made to pay duties as soon as they cross the main stream of the Rio Grande and only then, and the officers of either side should have every facility to detect violations of law, instead of, as now, being hampered by various obstacles of nature aggravated by laws and treaties.

I have dwelt rather long on the subject, but hope you be able to understand the situation, and do something to remedy it. With best wishes, etc.

I am very truly yours

J. J. COCKE.

[Inclosure 2.]

DEPARTMENT OF STATE,

WASHINGTON, *January 12, 1888.*

The Honorable WM. H. CRAIN, M. C.

House of Representatives

SIR:

I have the honor to acknowledge the receipt of your letter of the 9th instant, submitting for my consideration a communication addressed to you by Mr. J. J. Cocke, Collector of Customs of the District of Brazos Santiago, in the State of Texas, touching the need of practically determining the boundary between the United States and Mexico where it follows the channel of the Rio Grande or Bravo. My thanks are due for this reference of the letter of Mr. Cocke who treats the subject intelligently and sets forth his conclusions with clearness and force.

Mr. Cocke argues that the existing provisions of the Treaty of Guadalupe Hidalgo and of the Boundary Convention of Nov. 12, 1884, do not effectively meet the case of constant changes in the river bed caused by the cutting of new channels, and advocates a new treaty "defining the boundary between Mexico and the United States to be the channel of the Rio Grande, and giving to the United States and the State of Texas both civil and criminal jurisdiction over the '*bancos*' or cut-offs on this side, ownership of the land to be settled by other provisions of treaty or courts provided for thereunder."

The general question involved was exhaustively considered by Attorney General Cushing in an opinion dated November 11, 1856, (Ops. Attys. Gen. VIII 175), the precise point before him being the propriety of a clause proposed by the Boundary Commissioners, under the Treaty of Guadalupe-Hidalgo for determining questions of jurisdiction and ownership arising from changes in the channel of the Rio Grande; and Mr. Cushing adduced uncontrovertible precedents and arguments to show the concurrence of authorities in holding that when a river is the line of arcifinious boundary between two nations, its natural channel so continues notwithstanding any changes of its course by accretion or decretion of either bank; but if the course be changed abruptly into a new bed by irruption or avulsion, then the (deserted) river-bed becomes the boundary."

Articles I and II. of the Boundary Convention of Nov 12, 1884, lay down this accepted international doctrine, and make it the determining rule as between the United States and Mexico. I enclose a copy of that Convention for your inspection. It is seen that it merely prescribes the rule, but provides no means of applying it to determine given cases, and it is to this omission, rather than the rule itself, that the strictures of Mr. Cocke apply.

It may be practicable to arrange with the Mexican Government for an International River Commission, to apply the Convention of 1884, the case arising; but as such an arrangement would not be effective without legislative provision for expenses, I would prefer to have some indication of the feeling of Congress in the premises before entering on any formal negotiation; and moreover, it would seem proper in view of the association of revenue questions with that of jurisdiction, to consult the Secretary of the Treasury on the subject. I have accordingly communicated to Mr. Fairchild a copy of your letter and its enclosure and of my present reply.

I have etc., etc.

T. F. BAYARD.

Enclosure. Convention of Nov 12—1884—printed copy

Mr. Bayard to Mr. Connery.

No. 250.

DEPARTMENT OF STATE,
WASHINGTON, *January 26, 1888.*

THOS. B. CONNERY, Esqre.
&c. &c. &c.

SIR;

With further reference to my No. 240 of the 16th instant, I herewith transmit for your own information, a copy of a letter from the Secretary of the Treasury dated the 24th instant, concurring on the Department's suggestion with regard to the determination of the boundary between the United States and Mexico where it follows the channel of the Rio Grande, for the appointment of an International River Commission to apply the rule prescribed by the boundary Convention of November 12, 1884.

The Honble Wm. H. Crain, M. C. has been furnished with a copy of Mr. Fairchild's letter.

I am, &c.

T. F. BAYARD.

Encl. Mr. Fairchild to Mr. Bayard, Jan. 24, 1888.

[Inclosure.]

Mr. Fairchild to Mr. Bayard.

TREASURY DEPARTMENT.

January 24th, 1888.

The Honorable THE SECRETARY OF STATE.

SIR:

I have the honor to acknowledge the receipt of your communication of the 16th instant, enclosing for an expression of my views thereon copy of correspondence between yourself and Honorable William H. Crain, of Texas, touching the need of practically determining the boundary between the United States and Mexico where it follows the channel of the Rio Grande.

In view of the difficulties constantly experienced in enforcing the revenue laws on the Mexican frontier owing in a great measure to the present uncertainty as to the boundary line between the two countries, I concur in your suggestion for the appointment of an International River Commission to apply the rule prescribed by the Boundary Convention of November 12, 1884.

Respectfully yours,

C. S. FAIRCHILD, *Secretary.*

Mr. Connery to Mr. Bayard.

No. 301.

LEGATION OF THE UNITED STATES,
MEXICO, *February 6, 1888.*

To the Honorable T. F. BAYARD, *etc., etc.,*
Washington, D. C.

SIR:

Referring to your No. 240, dated January 16, 1888, I beg leave to report that, having had occasion to confer with Mr. Mariscal about some other matters, I incidentally alluded to the subject of the boundary between the United States and Mexico where it follows the channel of the Rio Grande.

I should first mention that I have not been able to find in the Legation any map clearly showing the boundaries between the two countries, and I therefore asked Mr. Mariscal if he could allow me the use of such a map for a week or so. He promised to send me the latest issued by the Department of Public Works.

This brought me easily to the subject of the necessity to keep some record of the changes in the channel of the Rio Grande, and I found, on questioning Mr. Mariscal, that his Government kept no such record, and had devised no plan for determining questions arising under the last Boundary Convention. He remarked that the original boundary lines could always be determined by the maps which formed part of all the Treaties made since 1848—that of Guadalupe-Hidalgo down to the Boundary Convention of November 12, 1884. In all those Treaties, said Mr. Mariscal, the old Roman principle had been adopted,—namely that the sudden and great diversion of a river course would leave the boundary line where originally fixed by Treaty prescriptions, and that only the gradual changes, operated by natural causes, through erosion, deposit of alluvium and such like agencies, could effect an alteration of the boundary lines.

As a matter of course, I made no suggestion or proposition, not even alluding to the difficulties experienced in enforcing the revenue laws on the frontier.

I am, Sir, very respectfully,
Your obedient servant,

THOMAS B. CONNERY.

Mr. Bayard to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *February 10, 1888.*

Señor DON MATIAS ROMERO,

etc. etc. etc.

SIR:

I have the honor to transmit, for your information, in connection with my note of the 3d ultimo, the enclosed copy of a letter from the Governor of Texas, dated the 3d instant, covering a report by Mr. J. M. Dean, District Attorney for the 34th Judicial District of Texas, in regard to the complaint of the Mexican Government of the injurious effects to the inhabitants of Paso del Norte, from a certain sewerage drain or pipe constructed on the American side of the Rio Grande at El Paso, Texas. The conclusions of the report, after a full examination of the subject, are that it is difficult to see how the health, comfort, enjoyment or convenience can be directly or remotely affected by the drain pipe in question.

Accept, Sir, etc.,

T. F. BAYARD.

Enclosure: Gov. Ross to Mr. Bayard, Feb. 3, 1888, with encl.

[Inclosure.]

Mr. Ross to Mr. Bayard.

EXECUTIVE OFFICE,
AUSTIN, *February 3d, 1888*

Hon. T. F. BAYARD

Secretary of State, U. S., Washington, D. C.

SIR: In reference to your communication of January 3rd which enclosed a communication from M. Romero complaining of the effect a certain sewerage drain or pipe constructed on the American side of the Rio Grande was having on the inhabitants of the Mexican side, I have the honor to state that on the Eighth of January I directed the Hon. J. M. Dean the District Attorney of the 34th Judicial District to make a thorough examination of the whole matter and report thereon.

This report I enclose for your consideration,

And am very Respectfully

L. S. ROSS
Governor of Texas.

[Sub-inclosure.]

Mr. Dean to Mr. Ross.

MARFA, TEXAS,
January 30th, 1888.

To His Excellency L. S. Ross
Governor of Texas

SIR: In accordance with your communication of the 8th Inst, I have made a thorough examination and investigation of the matters complained of in the annexed communication of Señor M. Romero directed to Hon. Thos. F. Bayard. The following I most respectfully submit as the facts in the matter.

1st. The Rio Grande at El Paso Texas flows in an easterly direction,

2nd. The city of Paso del Norte Mexico is on the south side of said river and El Paso Texas on the north side of same nearly if not quite opposite Paso del Norte,

3d. All the water used by the citizens of Paso del Norte and vicinity in Mexico for any purpose whatever is taken from what is known as the "Acequia Madre," said Acequia taps the Rio Grande above or west of Paso del Norte about one and a half miles and about the same distance west or up the river from El Paso, Texas,

4th. The drain pipe complained of, has been constructed by the Municipal Authorities of El Paso Texas, and is about twelve inches in diameter, is wholly on the north or American side of the Rio Grande and empties into said river at a point on the same about two and one half miles east or down the river from the point where said river is tapped by the "Acequia Madre" of Paso del Norte

5th. Except Paso del Norte and its adjacent orchards, farms and inhabitants all of whom as before stated use water from "Acequia Madre", the territory along the Rio Grande on the south side is wholly uninhabited for a distance of about Twenty miles East of the point where said drain or sewer pipe empties into said river

6th. That said drain pipe crosses no territory belonging to the Republic of Mexico

7th. The Rio Grande at the point where said drain pipe empties into it and for many miles east thereof is exceedingly muddy whereby it is considered by experts to be impossible for the discharge of sewage from said pipe to injuriously affect the waters of said river for a greater distance than two miles

8th. From the nature of the river bank on the south side of the Rio Grande it would be almost an impossibility to take out a ditch or Acequia to be used in Mexico any nearer the drain pipe on the East or down the river from said pipe than ten miles

9th. The waters of the Rio Grande are rarely if ever used unless first taken therefrom in Acequias as it is by Paso del Norte,

10th. That all of the inhabitants who reside near the Rio Grande for a distance of Twenty miles east or down the river from said drain pipe are on the North side of said river and are inhabitants of the United States of America.

The above being the facts of the case it is difficult to see how the health comfort, enjoyment or convenience of any citizen of the Republic of Mexico is to be in any way directly or remotely affected by said drain pipe, were the facts reversed and the drain pipe up the river or west of the mouth of the Acequia Madre, then there might be some apparent cause for complaint,

The above conclusions of my own, I find upon investigation to be also the opinions held by various prominent citizens of Paso del Norte Mexico and notably of Ex. Gov. Samanigo of Chihuahua now residing in Paso del Norte, Mexico, Hoping that my investigation and report of this matter is adequate to the needs of Your Excellency

I am sir your most obedient servt

J. M. DEAN

Dist. Atty. 34th Judicial Dist of Texas.

Señor Romero to Mr. Bayard.

LEGACIÓN MEXICANA,

WASHINGTON, *Febrero 11 de 1888.*

Señor SECRETARIO:

He tenido la honra de recibir la nota de Usted, de ayer, en la que refiriéndose á su anterior de 3 de Enero próximo pasado, me incluye Usted una comunicación del Gobernador del Estado de Texas, fechada el 3 del corriente, que acompaña un informe de Mr. J. M. Dean, Procurador de Distrito del 34° distrito judicial de Texas, respecto de la queja presentada por el Gobierno de México con motivo de los efectos perjudiciales para los habitantes de Paso del Norte, de la atarjea que se está construyendo en El Paso, Texas, para el desagüe de la ciudad. El informe de Mr. Dean termina diciendo que no puede comprender que la salud, comodidad, bienestar ó conveniencia de los habitantes

de Paso del Norte, puedan ser directa ó remotamente afectados por la referida atarjea.

Tengo la honra de decir á Usted en respuesta que ya comunico al Gobierno Mexicano, la nota citada de Usted y los documentos á ella anexos, para su conocimiento y resolución.

Me parece oportuno hacer presente además, refiriéndome á los conceptos finales del informe de Mr. Dean, en que asegura que personas prominentes de Paso del Norte, participan de su opinión, y cita al Señor Samaniego, que, aunque es cierto que un periódico de El Paso, Texas, publicó la relación de una entrevista con el Señor Samaniego, en que aparecieron los conceptos contenidos en el informe de Mr. Dean, éstos fueron despues rectificados por el mismo Señor Samaniego, en *El Centinela*, de Paso del Norte, correspondiente al 29 de Enero próximo pasado.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. THOMAS FRANCIS BAYARD,

etc., etc., etc.

[Translation.]

LEGATION OF MEXICO.

WASHINGTON, *February 11th, 1888.*

Mr. SECRETARY:

I have had the honor to receive your note of yesterday, in which, referring to your previous note of the 3d ultimo, you enclose a communication from the Governor of the State of Texas, accompanied by a report of Mr. J. M. Dean, District Attorney of the 34th judicial district of Texas, concerning the complaint made by the Government of Mexico on account of the effects—which are considered prejudicial to the inhabitants of Paso del Norte—of the drain pipe that is in course of construction at El Paso, Texas, for the purpose of draining that city. Mr. Dean concludes his report by saying that he does not see how the health, welfare or convenience of the inhabitants of Paso del Norte can be affected, either directly or indirectly, by the pipe in question.

In reply I have the honor to inform you that I shall at once transmit your aforesaid note and its enclosures to the Mexican Government for its information, and that it may adopt such decision in the case as it may think proper.

It may not be amiss for me to state, referring to the concluding portion of Mr. Dean's report, wherein he states that prominent

persons at Paso del Norte share his opinion, and quotes Mr. Samaniego. Now, although it is true that a newspaper published at El Paso, Texas, published a report of an interview with that gentleman, in which statements appeared similar to those made by Mr. Dean, those statements were subsequently rectified by Mr. Samaniego in the columns of *El Centinela*, of Paso del Norte, in its number of January 9th, 1888.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. THOMAS FRANCIS BAYARD, *etc.*, *etc.*

Mr. Bayard to Mr. Connery.

No. 258.

DEPARTMENT OF STATE,
WASHINGTON, *February 13, 1888.*

THOS. B. CONNERY, Esqre.

&c. &c. &c.

SIR:

I herewith transmit, for your information, a copy of a letter from the Honorable S. W. T. Lanham, a member of Congress, from Texas, dated the 8th instant, covering a communication to him from the President of El Paso Development Board, in regard to wing-dams understood to be in course of construction on the opposite bank of the Rio Grande and which, if prosecuted to completion and permitted to remain will seriously damage a portion of the City of El Paso.

While this Government has no desire to interfere with any improvements which Mexico may deem essential for the due protection of her shores, yet at the same time, it is not believed that anything which threatens serious injury to American property rights will in the interests of good neighborhood be persisted in upon proper representations being made.

Accordingly you will suitably lay the facts in this correspondence before the Mexican Government, asking to be favored with an explanation in regard to the wing-dams, and, if necessary, that steps, be immediately taken to remedy the evil complained of.

For convenience, I enclose two tracings showing merely the course of the river and the position of the wing-dams on the Mexican side. One of these copies you may present to Mr. Mariscal with your note upon the subject.

I am, &c.

T. F. BAYARD.

Enclosure: Mr. Lanham to Mr. Bayard, Feb. 8/88. Encl.

[Inclosure.]

*Mr. Lanham to Mr. Bayard.*HOUSE OF REPRESENTATIVES, U. S.,
WASHINGTON, D. C., *Feb. 8th, 1888.*Hon. THOS. F. BAYARD,
Secty of State,

DEAR SIR:

I respectfully transmit a communication with accompanying map this day received by me from the President of the El Paso Development Board.

Your consideration of the matter stated is respectfully requested.

I have the honor to be,
Very Respectfully,
Yr obt servt

S. W. T. LANHAM,
MC 11th Tex.

[Sub-inclosure.]

*Mr. Russell to Mr. Lanham.*THE EL PASO DEVELOPMENT BOARD.
EL PASO, TEXAS, *1/30, 1888.*Hon. S. W. T. LANHAM,
Washington, D. C.

DEAR SIR:

We desire to call your attention to the following situation, and ask your kind offices in at once calling the attention of the Hon. Secretary Bayard to it and request him to take as prompt and effective action as is possible to cause the work which threatens our city to be stopped before it is too late and the course of the Rio Grande permanently changed.

Enclosed you will find a map and the red lines on the Mexican side of the river will show about the localities where they are working.

The land on which the City of El Paso is built is from about where the Courthouse stands to the West, South and East, alluvial soil deposited by the river and were the course of the river permanently deflected so that its force is turned upon our banks then in a very short space of time a large part of the town would be washed off.

We grant that the Mexicans have the right to protect their own banks but hold that they have no right to construct dams, *wing dams*, or any work of this kind to the injury and impairment of our shores as they are now doing.

These wing dams are six to eight feet high, and very substantially built of timber rock and willows, and while largely finished; now more are in process of construction, the work on the latter should be stopped at once and the dams already finished removed for as soon as the high water comes the damage to our town will be serious.

Urging as strongly as we can your prompt action in this matter we remain

Yours respectfully,

EL PASO DEVELOPMENT BOARD.

S. W. RUSSELL, *Prest.*

Mr. Bayard to Mr. Connery.

No. 263.

DEPARTMENT OF STATE,

WASHINGTON, *February 15, 1888.*

THOS. B. CONNERY, Esqre

&c. &c. &c.

SIR.

I have received your No 301 of the 6th instant, stating that the Mexican Government has devised no plan for determining questions arising under the Boundary Convention of November 12, 1884, between that Republic and the United States.

I have forwarded a copy of your despatch to the Honorable Wm. H. Crain, of the House of Representatives, for his perusal, in connection with my letter to him of the 13th instant, covering the draft of a joint resolution looking to the creation of an international Commission for the settlement of questions arising under that convention. I add for your information and files a copy of that letter.

I am, &c.

T. F. BAYARD.

Enclosure: Mr. Bayard to Mr. Crain, February 13, 1888.

[Inclosure.]

Mr. Bayard to Mr. Crain.

DEPARTMENT OF STATE,

WASHINGTON *13 February 1888.*

The Hon. W. H. CRAIN, M. C.,

House of Representatives.

SIR:

In response to the request contained in your letter of the 6th instant that I should furnish you with a draft of a bill or resolution, the presentation and discussion of which may serve to indi-

cate the feeling of Congress with respect to the suggestion, heretofore made by me and concurred in by the Secretary of the Treasury that an International Commission be created by the United States and Mexico to apply to the settlement of questions arising from changes in the bed of the Rio Grande, the rules laid down in the Convention of Novr. 12, 1884, between the two countries, I have the honor to propose the following draft of a Joint Resolution to the end in view.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled: that the President be, and he hereby is, requested to negotiate with the Government of Mexico for the creation of an international Commission to determine, according to the rules laid down in the Convention between the two countries signed at Washington the twelfth day of November one thousand eight hundred and eighty four, all questions touching the boundary line between the United States and Mexico where it follows the bed of the Rio Grande and the Colorado River.

I have the honor to be, Sir,

Your obedient servant,

T. F. BAYARD.

Mr. Bragg to Mr. Bayard.

No. 56

LEGATION OF THE UNITED STATES,
MEXICO, May 30, 1888.

To the Honorable T. F. BAYARD,

&c. &c. &c.

Washington, D. C.

SIR:

Upon receipt of your No. 258, of February 13, 1888, Mr. Connery addressed Mr. Mariscal a note, copy of which is enclosed, calling his attention to the complaint of citizens of El Paso, Texas, concerning the construction of wing-dams on the Mexican side of the river, which threatened injury to property on the American side.

I am in receipt of Mr. Mariscal's reply, of which I forward translation. It will be noted that there is a careful avoidance in the letter to any allusion to what the future effect may be.

I am Sir very respectfully,

Your obedient servant,

EDW. S. BRAGG.

Encl. 1. Mr. Connery to Mr. Mariscal, Feb. 24, 1888.

2. Mr. Mariscal to Mr. Bragg, May 22, 1888.

[Inclosure 1.]

Señor Connery to Señor Mariscal.

LEGATION OF THE UNITED STATES,
MEXICO, *February 24, 1888.*

SIR:

I am instructed by Mr. Bayard to call the attention of Your Excellency's Government to the complaint formulated by citizens of El Paso, Texas, concerning the construction of wing-dams on the opposite bank of the Rio Grande, which if prosecuted to completion or permitted to remain will, it is claimed, seriously damage a portion of the city of El Paso. In order to make the matter even clearer to Your Excellency, I have the honor to enclose herewith a tracing showing merely the course of the Rio Grande and the position of the wing-dams on the Mexican side.

While my Government has no desire to interfere with any improvements which Mexico may deem essential for the due protection of her shores, it is not believed that anything which threatens serious injury to American property rights will, in the interest of good neighborhood, be persisted in, upon proper representations being made. May I venture to ask whether the works under construction are an absolute necessity, or whether the object desired could not be accomplished in some other way more consistent with the interests of both countries? I would most respectfully pray Your Excellency to be favored with an explanation in regard to the wing-dams, and that steps be taken to remedy the evil complained of.

I beg to renew &c.

THOMAS B. CONNERY.

To His Excellency

IGNACIO MARISCAL,

&c. &c. &c.

[Inclosure 2.]

Señor Mariscal to Mr. Bragg.

SECRETARÍA DE RELACIONES EXTERIORES,
MEXICO, *Mayo 22 de 1888.*

Señor MINISTRO:

Immediatamente que recibí la nota de esa Legación del 24 de Febrero último, relativa á la queja presentada por ciudadanos de El Paso, Texas, contra la construcción de diques de espolón en la orilla derecha del Rio Bravo, la trasladé á la Secretaría de Fomento pidiéndole informe sobre el particular.

Con fecha 14 del actual la expresada Secretaría me comunicó el informe rendido por el Ingeniero Director de las obras hidráulicas de dicho Rio en Paso del Norte el dia 4 del mismo mes. En ese informe se asegura: que las obras á que se refiere esa Legación, executadas con el exclusivo objeto de proteger la márgen derecha de aquel rio contra la fuerza de las corrientes, no han causado hasta ahora daño alguno á la márgen izquierda; y que los cambios habidos en ambos lados han sido efectuados con anterioridad á la construcción de los mencionados espolones y producidos únicamente por la corrosión que es natural en terrenos deleznales.

Esperando que las explicaciones anteriores dejarán satisfechos los deseos expresados en la nota que tengo la honra de contestar, y refiriéndome al contenido de la mia de 16 del corriente en lo relativo á la nacionalidad del terreno que se halla al Sur del antiguo cauce del Rio Bravo, tengo la satisfacción de reiterar á Vuestra Excelencia las protestas de mi muy distinguida consideración.

IGNO. MARISCAL.

A Su Excelencia

EDWARD S. BRAGG,

*Enviado Extraordinario y Ministro Plenipotenciario de
los Estados Unidos de América.*

[Inclosure 3.]

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,
MEXICO, May 22, 1888.

MR. MINISTER:

Immediately upon receipt of the note, of February 24th last, from your Legation, relative to the complaint formulated by citizens of El Paso, Texas, concerning the construction of wing-dams on the right bank of the Rio Grande, I transmitted the same to the Department of Public Works, requesting information upon the matter.

Under date of the 14th instant, the said Department forwarded to me the report furnished upon the 4th instant, by the Chief Engineer in charge of the hydraulic works on the River, resident at Paso del Norte. That report establishes the fact that the wing-dams referred to by your Legation, and the construction of which was for the sole purpose of protecting the right bank of that river against the force of the current, have not, up to the present, caused any damage to the left bank of the same; also that the changes produced upon both river-banks were produced

prior to the construction of the said wing-dams and were due alone to the corrosion natural to soft lands.

Hoping that these explanations will satisfy the inquiries of the letter which I have the honor to answer, and at the same time referring to mine of the 16th instant relative to the national status of the lands lying to the South of the old bed of the Rio Grande, I have the satisfaction to reiterate to Your Excellency the protests of my very distinguished consideration.

IGNO. MARISCAL.

To His Excellency

EDWARD S. BRAGG,

&c. &c. &c.

Señor Romero to Mr. Bayard.

LEGACIÓN MEXICANA,

WASHINGTON, Agosto 13 de 1888.

Señor SECRETARIO:

Tengo la honra de informar á Usted, que habiendo trasmitido á mi Gobierno, el informe de Mr. J. M. Dean, Procurador del 34° distrito de Texas, sobre el proyecto de desagüe de la ciudad de El Paso, que se sirvió Usted remitirme con su nota de 10 de Febrero último, segun avisé á Usted que lo hacía en mi comunicación del dia 11, he recibido hoy una nota del Señor Mariscal, fechada en la ciudad de México el 1° del corriente, con la que me remite cópia de la respuesta del Ayuntamiento de Paso del Norte, México, fechada el 5 de Abril último, en que se hacen rectificaciones al referido informe de Mr. Dean, con instrucciones de que la trasmita á Usted, como tengo la honra de hacerlo, para su conocimiento y en respuesta á dicho informe.

Sírvase Usted aceptar, Señor Secretario, las seguridades reiteradas de mi más distinguida consideración.

M. ROMERO.

Anexo:—Cópia de respuesta del Ayuntamiento de Paso del Norte, fechada el 5 de Abril de 1888.

Hon. THOMAS FRANCIS BAYARD,

etc., etc., etc.

[Inclosure.]

Un sello que dice. "Ayuntamiento municipal de Paso del Norte. República Mexicana."

La corporacion municipal que me honro de presidir, ha dado la debida atencion a las copias de las notas cambiadas entre la Secretaría de Estado en Washington y la Legacion Mexicana en aquella

capital, con relacion á la cuestion del desagüe de la ciudad vecina, en el Rio Bravo, y las cuales Usted se sirvió acompañar á su nota de fecha 9 del corriente, habiéndose acordado replicar, como tengo la honra de hacerlo, contestando ó rectificando diversos puntos de la nota informativa del Señor Dean, Procurador del 34° Distrito Judicial de Texas, á quien se encomendó el estudio de la mencionada cuestion, por contener inexactitudes y apreciaciones erróneas, que si se dejaran en pié vendrían, sin duda, á perjudicar los derechos que nos asisten en tan importante cuestion, así como porque podrían servir de precedentes sentados y admitidos para otras cuestiones de carácter internacional que puedan surgir de la presente.

En primer lugar creo deber manifestar que, en concepto de este Honorable Ayuntamiento, el proyecto de que se trata es un proyecto criminal, antihumanitario, que tiende á convertir las regiones salutíferas del Bravo en regiones sepulcrales, y las cuales una vez infeccionadas correrán la suerte de tantas otras, en semejante condicion, que segun algunos viajeros, se encuentran en el Asia, sin que haya sido posible su desinfeccion posterior, quedando sujetas para siempre á enfermedades periódicas, que diezman las poblaciones de las orillas de sus rios y las cuales llevan el gérmen de la muerte á pueblos muy lejanos; en cuya asuncion el Cuerpo municipal de que soy órgano, se encuentra sostenido por la muy respetable opinion de su autor, á cuyos estudios debe mucho la ciencia de la higiene público, Adolfo de Varona, quien ha puesto por lema á una de sus obras, las siguientes palabras: “ No llegarán á entender los hombres la magnitud del *crimen* que cometen aquellos que envenenan el aire de sus ciudades, *las aguas de sus rios*, ó las provisiones de sus mercados, sino cuando las propiedades del aire, del agua y de los alimentos se enseñen en las escuelas, con preferencia á los abstractos principios de la gramática y á los desfigurados hechos de la historia.”

“ Not until the properties of air, water and food are taught in schools in preference to the abstract rules of grammar and the distorted facts of history, will men come to understand the magnitude of the *crime* that is committed by those who poison the air of their cities, *the water of their rivers*, the supplies of the market places.” Sewer Gases: by Adolfo de Varona. Van Nostrand's Science Series. No. 55.”

Por esta razon, antes de ocuparme de la nota citada, he debido empezar por la manifestacion que precede para renovar la mas enérgica protesta contra tan incicuo proyecto, asi como para

solicitar respetuosamente del Supremo Gobierno del Estado, todo el apoyo que nuestros derechos y los de todos los pueblos de abajo, requieren con fundamento del sabio principio de que *la salud del pueblo ha de ser la suprema ley*.

Paso ahora á refutar, siquiera brevemente, algunas de las asepciones contenidas en la nota del Señor Dean. * * *

* * * * *

En el quinto punto asienta que el territorio adyacente al río por el Sur, está del todo desierto en una distancia de veinte millas al Este del punto en que el caño desagua en el río: y la carencia de verdad de tal asepcion resulta manifiesta de la relacion de los pueblos y ranchos que en dicho tramo existen: sin que tal asepcion, aun verdadera, tenga fuerza alguna, pues aunque en la actualidad no hubiese allí poblacion, el Señor Dean no podria asegurar que no la hubiese en adelante, cuando todo el litoral del Bravo tiene que poblarse necesariamente de ambos lados por la superioridad de sus terrenos y el necesario desarrollo de la agricultura.

En apoyo de lo expuesto me permito referirme y copiar íntegra la nota que esa Jefatura dirigió con fecha 5 del actual al Gobierno del Estado, y es la siguiente: “En debida contestacion á la nota de Usted, fecha 25 del mes próximo pasado, paso á rendir la noticia circunstanciada que desea obtener el Cónsul Mexicano en El Paso, Texas, respecto de los lugares poblados que actualmente existen entre esta Villa y la hacienda de San Agustin: al Este de esta cabecera, Pueblo de Senecú, seccion municipal, con quinientos ochenta y seis habitantes (586), distante de esta villa dos y media leguas, (poco mas de seis millas): Zaragoza, seccion municipal, con trescientos sesenta habitantes (360), á legua y media de Senecú y á cuatro de este lugar (cosa de diez y seis millas); siguiendo la misma línea y á dos leguas de Zaragoza se encuentra el pequeño rancho de “Vado de Piedra,” viniendo luego el conocido con el nombre de “Loma Blanca,” á seis leguas de esta plaza, (como diez y ocho millas). Estos últimos lugares, aunque habitados, no es posible especificar su poblacion por no haber datos oficiales, lo mismo que de otros pequeños lugares situados entre los pueblos de Senecú y Vado de Piedra, cuyas distancias no puedo apreciar.— Por ultimo se encuentra á dos leguas de Loma Blanca la Hacienda de San Agustin; á ocho leguas de este lugar con trescientos habitantes (300). Así pues, no es cierto que la orilla derecha del Bravo se encuentra desierta en un tramo de (20) veinte millas al Este de esta poblacion.

* * * * *

En el sétimo punto se cita la teoría de la purificacion de las aguas de una corriente á dos millas de distancia, pero esta teoría, muy disputada, no podría tener aplicacion ninguna en un rio como el Bravo, sin relacion al volúmen de agua que varía mucho en el curso de cada año, hasta quedar seco algunas veces en la estacion del otoño, no menos que á la velocidad de su corriente, como á la cantidad creciente de inmundicia que se ha de descargar, que será en proporcion de la poblacion creciente de El Paso, Texas, por consiguiente indeterminada, y parece evidente que si á cantidad determinada se pone cantidad indeterminada de veneno, el resultado sea una infeccion necesaria. El Rio Bravo, cuyo curso en toda su extension es sumamente tortuoso, aun en tiempo de creciente, esta no es muy veloz y va llenando poco á poco ancones de uno y otro lado en donde se hacen charcos y atascaderos que serian semilleros de gérmenes maléficos en la estacion del calor. No es fácil, ademas, comprender por que lo turbio del agua contribuya á hacer imposible la infeccion.

Lo que asienta en el octavo punto no puede comprenderse si no es que signifique que, por la diferencia de nivel y por lo deleznable del terreno, la apertura de nuevas acequias se haga imposible en una distancia de diez millas, rio abajo; pero ambos obstáculos los hace desaparecer la ingeniería y así queda sin fundamento tal aserto.

Lo que se dice en el noveno no es del todo exacto: frecuentemente se hace uso del agua del rio, ya sea porque no entre la suficiente en la boca acequia, cuando llega á escasearse en el rio, ó bien porque la creciente haya descompuesto la misma boca-acequia, ó porque haya que proceder á la limpia de la acequia-madre, lo cual está pasando en estos dias.

La asercion contenida en el décimo punto en nada favorece á los empresarios del desagüe; porque aunque fuese cierta, de ningun modo probaría que tal proyecto fuese bueno, máxime cuando los mismos ciudadanos americanos que habitan esas veinte millas de distancia, rio abajo por la orilla izquierda, como es el pueblo de "La Isleta", han hecho protesta muy enérgica contra el proyecto, llevando la cuestion ante los tribunales y hoy ya se les ofrece como avenimiento el abrirles una nueva acequia arriba del desagüe, que costará no menos de diez mil pesos.

Así pues, es un hecho que la salud, comodidad y conveniencia á que tenemos derecho nosotros los habitantes de Paso del Norte, sino los de todos los Pueblos de abajo, aun los remotos de otros Estados, asi como la poblacion futura de todo el litoral derecho

del Rio Bravo, se afecta y muy directamente con la ejecucion del proyecto de que se trata, siendo la cuestion á que da origen no una cuestion local en que solo se versen intereses encontrados de dos ciudades vecinas, ní á un internacional, en que se trate solo de la aplicacion de principios de derecho sin trascendencia alguna, sino cuestion de humanidad, en que va de por medio la salud de muchos pueblos presentes y futuros, y no solo mexicanos sino de los países vecinos, y en tal concepto de nuevo reiteramos, por conducto del Superior Gobierno de Estado, nuestras protestas, solicitando su firme apoyo, asegurándole yo á Usted, con tal motivo a nombre de esta corporacion que presido, mis respetos y muy distinguida consideracion.

Libertad y Constitucion. Paso del Norte, Abril 5 de 1888.

(firmado) DAMASO SANCHEZ.

Un sello que dice: Ayuntamiento municipal de Paso del Norte Republica Mexicana."

Al Jefe Politico de este Distrito. Presente.

Es copia. Washington, Agosto 13 de 1888.

C. ROMERO.

Secretario.

[Translation.]

LEGATION OF MEXICO

WASHINGTON, August 13th, 1888.

Mr. SECRETARY:

I have the honor to inform you that, having transmitted to my Government the report of Mr. J. M. Dean, Attorney of the 34th district of Texas, concerning the plan for draining the city of El Paso, (which you were pleased to send me with your note of the 10th of February last), as I stated that I would do in my communication of the 11th, I have to-day received a note from Mr. Mariscal, dated City of Mexico, August 1st, 1888, in which he encloses a copy of the reply of the Ayuntamiento (Town-Board) of Paso del Norte, Mexico, dated the 5th of April last, in which certain statements made by Mr. Dean are corrected, and instructs me to transmit it to you, as I hereby have the honor to do, for your information, and in reply to the report aforesaid.

Be pleased to accept, Mr. Secretary, the reiterated assurances of my most distinguished consideration.

M. ROMERO.

Hon. THOMAS FRANCIS BAYARD, *etc., etc., etc.*

Enclosure—Copy of the reply of the Ayuntamiento of Paso del Norte, dated April 5th, 1888.

[Inclosure.]

[Translation.]

(A seal containing the words "Municipal Board of Paso Del Norte, Mexican Republic.")

The Municipal Corporation of which I have the honor to be the presiding officer has given due attention to the copies of the notes exchanged between the Department of State at Washington and the Mexican Legation in that Capital, in reference to the question of draining our neighboring city, on the other side of the Rio Grande, which copies you were pleased to send as enclosures to your note of the 9th instant. The corporation has now decided to reply, as I hereby have the honor to do, rectifying certain points of the report made by Mr. Dean, the Attorney of the 34th Judicial District of Texas, who was charged with the examination of the aforesaid question; his statement contains inaccuracies and misapprehensions, which, if allowed to pass unnoticed, would doubtless tend to impair our rights in this important question, and might serve as accepted and established precedents in other questions of an international character that might grow out of this one.

In the first place, I think it proper for me to state that, in the opinion of this honorable board, the project in question is a criminal and anti-humanitarian one, and that its tendency will be to convert the salubrious regions of the Rio Grande into death-breeding regions, which, when once infected, will share the fate of many others which, according to travelers in Asia, have become infected to such a degree that their disinfection is impossible, and that they are always subject to periodical diseases which decimate the population on the banks of their rivers, and carry the deadly germs to very distant localities; in this assumption, the municipal body whose organ I am, is sustained by the highly respectable opinion of Mr. Adolfo de Varona, an author to whose investigations the science of public hygiene is greatly indebted, and who has adopted the following words as the motto of one of his works: "Not until the properties of air, water and food, are taught in schools, in preference to the abstract rules of grammar and the distorted facts of history, will men come to understand the magnitude of the *crime* that is committed by those who poison the air of their cities, the *water of their rivers*, the supplies of the market-places." Sewer Gases, by Adolfo de Varona. Van Nostrand's Science series, No. 55.

For this reason, before considering Mr. Dean's report, I have thought proper to begin by making the foregoing statement in order to renew our energetic protest against this iniquitous project, and also respectfully to ask of the Supreme Government of the State all the assistance which our rights and those of all the lower towns require on the basis of the wise principle that *the health of the people must be the supreme law*.

I will now proceed briefly to refute some of the assertions contained in Mr. Dean's report. * * *

* * * * *

In reference to the 5th point he asserts, that the territory adjacent to the river on the south, is a mere desert for a distance of twenty miles to the east of the point where the drain-pipe enters the river. The incorrectness of this assertion is manifest, in view of the villages and ranches situated in the tract referred to; the aforesaid assertion, moreover, even supposing it to be true, has no force whatever, because, even if there were no population there now, Mr. Dean cannot say that there will be none hereafter, since both banks of the Rio Grande must necessarily become peopled, owing to the superiority of the land there and the consequent development of agriculture.

In support of the foregoing statements, I take the liberty to copy entire the note which your office addressed, under date of the 5th instant, to the present Governor of the State. It is as follows: "In reply to your note of the 25th ultimo, I will proceed to furnish the information desired by the Mexican Consul at El Paso, Texas, in regard to the towns and hamlets now situated between this town and the hacienda of San Augustin: to the east of this town is the village of Senecú, a municipal section, contain 586 inhabitants, distant $2\frac{1}{2}$ leagues (a little more than 6 miles) from this town; Zaragoza, a municipal section containing 360 inhabitants, a league and a half from Senecú, and four leagues, or about 16 miles, from this place; following the same line, at a distance of 2 leagues from Zaragoza, we come to the little ranch called "Vado de Piedra"; we next come to that known as "Loma Blanco", 6 leagues, or 18 miles, from this place. These last places, although inhabited, contain a population whose number cannot be ascertained, owing to the fact that no official data exist. The same is the case with other little places situated between Senecú and Vado de Piedra, concerning whose distances I can state nothing positively. Finally, at a distance of 2 leagues from Loma Blanca,

we come to the hacienda of San Agustin, whose distance from this place is 8 leagues, and which contains 300 inhabitants. It is thus seen that it is wholly untrue that the right bank of the Rio Grande is a desert or wilderness for 20 miles to the east of this town."

* * * * *

In reference to the 7th point is cited the theory of the purification of the water of a stream at a distance of two miles, but this theory, which is much disputed, can have no application whatever to a river like the Rio Grande, without any relation to the volume of water, which varies greatly in the course of each year; so much so that the river sometimes becomes dry in the autumn, or to the velocity of its current, or to the increasing quantity of filth which must be discharged, which will be in proportion to the increasing population of El Paso, Texas, and which is consequently undetermined, and it seems evident that if to a determinate quantity an indeterminate quantity of poison is added, the result must be infection. The Rio Grande, whose course, throughout its extent, is extremely tortuous, even when freshets prevail, does not run very rapidly and gradually forms pools on both sides, so that masses of stagnant are formed which would become hotbeds of death breeding germs during the summer season. It is, moreover, not easy to see how the disturbed condition of a body of water can tend to render infection impossible.

The statement made in relation to the 8th point, is unintelligible, unless it means that in view of the difference of level and the friable nature of the ground, the opening of new trenches is impossible at a distance of ten miles down the river; both obstacles, however, can be overcome by engineering, and therefore this assertion is without foundation.

What is said relative to the 9th point is not, in all respects, true; frequent use is made of the water of the river, either because a sufficient quantity does not enter at the mouth of the trench when the river gets low, or because the mouth itself has been obstructed by freshets, or because it is necessary to cleanse the main trench, which is now being done.

The assertion contained in the 10th point in no way favors the advocates of drainage; because, even if it were true, it would by no means prove the excellence of the plan, especially since the American citizens who live twenty miles below on the left bank viz: the people of La Isleta, have earnestly protested against it, carrying the question before the courts, and now, as a compro-

mise, it is promised to them that a new trench shall be dug above the point of drainage, which will cost not less than \$10,000.

It is therefore a fact that the health, comfort and convenience to which not only the inhabitants of Paso del Norte, but also those of the lower towns, and even those of remote towns in other states, are entitled, as are the people who are hereafter to inhabit the entire right bank of the Rio Grande, are directly affected by the execution of the project in question, the question to which it gives rise not being a local one, in which only the opposing interests of two neighboring cities are at stake, nor an international one in which the point at issue is the enforcement of certain wholly unimportant principles of law, but a question of humanity, in which the health of many towns, both now existing and hereafter to be founded, not only in Mexico, but also in the neighboring countries, is at stake.

We therefore reiterate our protests through the Superior Government of the State, whose firm support we ask. I assure you in the name of this corporation, whose presiding officer I am, of my respect and very distinguished consideration.

Liberty and Constitution. Paso Del Norte, April 5th, 1888.

DAMASO SANCHEZ.

A seal containing the words: "Municipal Board of Paso Del Norte, Mexican Republic." To the Political Chief of this District, present. A copy, Washington, Aug. 13, 1888.

C. ROMERO, *Secretary*

Mr. Bayard to Señor Romero.

DEPARTMENT OF STATE,

WASHINGTON, *October 2, 1888.*

Señor Don MATIAS ROMERO,

etc. etc. etc.

SIR:

I have the honor to acknowledge the receipt of your note of August 13, 1888, containing the reply of the Town-Board of Paso del Norte, to the statements made by Mr. J. M. Dean to the Governor of Texas, touching a sewerage drain-pipe at El Paso Texas, and to say that a copy of your note has been transmitted to Governor Ross for his information and for that of the local authorities of that place.

Accept, etc.

T. F. BAYARD.

Señor Romero to Mr. Bayard.

LEGACIÓN MEXICANA,
WASHINGTON, 12 de Noviembre de 1888.

Señor SECRETARIO:

Habiendo visto que las obras que el Gobierno Mexicano está construyendo en Paso del Norte, para proteger sus riberas del Rio Bravo del Norte, han sido mal entendidas por algunos vecinos de El Paso, Texas, me parece conveniente comunicar á Usted copia de una carta no-oficial, que he recibido del Señor Don Ygnacio Garfias, Yngeniero encargado de la construccion de aquellas obras, que contiene datos importantes respecto de las mismas, que podrán servir á Usted para conocer el objeto y alcance de ellas.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Anexo: Señor Garfias al Señor Romero.

Noviembre 4 de 1888.

Hon. THOMAS F. BAYARD,

etc., etc., etc.

[Inclosure.]

Paso del Norte, Noviembre 4 de 1888.—Sr. Ministro Lic. Matias Romero — Washington — Muy Sr. mio de mi atención:—Ha vuelto á surgir en el Paso, ó una nueva reclamación ó no se que gestiones con motivo de haber comenzado aquí la obra no. 6 que arranca precisamente debajo del puente de la tramvia que comunica las dos poblaciones, y que por ser esa la via por donde se hace el tráfico, está mucho más visible que las otras. Creo que esta sola razon y la ignorancia sobre la materia de los promotores es lo que ha determinado las referidas gestiones. En efecto; no implicando la obra actual, que ya es la sesta, ninguna novedad, y teniendo ya hecha su reclamacion, no se comprende la actual actitud de nuestros vecinos.—Técnicamente, esta sesta obra es sin duda la que menos puede llegar á afectar la forma actual de la orilla izquierda del rio, porque aunque la ciencia teóricamente me obligó á proyectar dicha obra en el lugar que vá á ocupar; la experiencia que tengo adquirida desde Matamoros del efecto real de estas obras en este rio, me hace creer que va á ser completamente inútil, porque la obra número 5 arrojará la corriente al centro del rio, donde se mantendrá por un espacio muchas veces mas largo que el fijado por la teoria, debiendo resultar que dicha corriente pasará lejos de la obra n°. 6, y que por consiguiente va á

ser inutil.—Por lo que respecta al efecto de esta obra, que tanto ha alarmado á los vecinos, esta es mi opinion, y espero que las crecientes de los meses de Abril y Mayo, vendran á darme la razon. En cuanto á la cuestion legal, la ven ellos bajo otro punto de vista que anteriormente. Ahora se apoyan en la pretension de que el canal mas profundo es el límite segun ellos, y deducen que por estarse construyendo la obra actual en el canal mas profundo, se vulnera el tratado. No me ha valido para nada haberles enseñado el artículo V del tratado de Guadalupe Hidalgo que dice de la manera mas clara y terminante que la linea limítrofe es *el centro* del rio y que en el caso de haber mas de un trazo, será el centro del brazo mas profundo.

No lo han querido entender sino a su modo.—Otro tanto sucede con él artículo III del tratado de 1884. Este artículo se refiere á la no admision de cambios producidos artificialmente en la linea legal trazada en 1852. Para ellos la linea de 1852 no existe, porque el cambio les es favorable en este caso, y solamente les preocupa el cambio que pudiera sufrir la linea actual—Yo creo, y así lo dije en mi proyecto, que tenemos derecho de atacar la márjen izquierdo del rio, mientras no llegue ésta á ocupar la posicion, que tenia en 1852, y en consecuencia, mal pueden tener razon de quejarse de una obra que no solamente no tiende á rehacerse del terreno invadido por el rio, sino que por un exceso de precaucion y delicadeza, respeta esos nuestros terrenos, de los que malamente estan hoy en posesion los alborotadores actuales.—Alegan tambien que mis trabajos no constituyen un revestimiento, sino que “proyectan sobre la corriente del rio” (Artículo III del tratado de 1884). En primer lugar: solamente en un canal enteramente recto puede existir un revestimiento que no “proyecte sobre la corriente,” en cualquier rio, se puede construir un simple revestimiento y que sin embargo “proyecte sobre la corriente con solo aprovechar para ello las curvas salientes. En segundo lugar el tratado dice muy sabiamente * * * “que no proyecten *indebidamente*, y no es indebido desviar la corriente sobre terreno que es nuestro, como lo seria si la linea ocupara la posicion de 1852. En tercer lugar el resultado de mis obras viene a ser el de un simple revestimiento.

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—firmado—

Y. GARFIAS.

Es copia. Washington, Novº. 12 de 1888.

C. ROMERO.

Srio.

[Translation.]

LEGATION OF MEXICO,
WASHINGTON, *November 12th, 1888.*

Mr. SECRETARY:

Having seen that the works which the Mexican Government is constructing at Paso del Norte, for the protection of the Mexican bank of the Rio Bravo del Norte (Rio Grande) have been misunderstood by some of the inhabitants of El Paso, Texas, it seems proper for me to communicate to you a copy of an unofficial letter which I have received from Don Ignacio Garfias, the engineer in charge of the construction of said works, since it contains important data with respect to the same, which data may serve to acquaint you with their object and scope.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. THOMAS F. BAYARD, *etc., etc., etc.*

Enclosure: Mr. Garfias to Mr. Romero, November 4th, 1888.

[Inclosure.]

[Translation.]

PASO DEL NORTE, *November 4th, 1888.*

Hon. MATIAS ROMERO,

Minister of Mexico at Washington.

DEAR SIR:

A new complaint has arisen at El Paso on account of the commencement here of work no. 6, which begins just below the railroad bridge between the two cities; this route, being a thoroughfare by which trade is carried on, occupies a much more prominent position than the others. I think that this single reason, together with the ignorance of the complainants with regard to the matter, is what has given rise to this complaint. In fact, as the new work, which is the sixth, implies nothing new, and as they have already made their complaint, the present attitude of our people is not understood. Technically, this sixth work is the one that can least affect the present shape of the left bank of the river, because, although science technically compels me to project this work in the place which it is going to occupy, the experience that I have acquired, since leaving Matamoras, of the real effect of these works in this river, induces me to believe that it will be entirely useless,

for the reason that work no. 5 will throw the current to the center of the river, where it will be kept for a space many times as great as that fixed by theory, the consequence of which will be that the said current will pass at a long distance from work no. 6, so that the latter will be of no use whatever. Such is my opinion with regard to the effect of this work, which has caused so great alarm among the people of El Paso, and I hope that the freshets of April and May will show the correctness of this opinion. As to the legal question, it is seen by them in another light than that in which they formerly viewed it. They now claim that the deepest channel is the boundary, and say that, as this work is being constructed in the deepest channel, the treaty is violated. In vain have I called their attention to article V of the treaty of Guadalupe Hidalgo, which most clearly and positively declares that the boundary line is the middle of the river, and that, in case of there being more than one branch, it shall be the middle of the deepest branch. They have not been willing to understand the matter otherwise than in their own way. The same is the case with respect to article III of the treaty of 1884. That article has reference to the nonadmission of changes artificially produced within the legal line drawn in 1852. The line of 1852 does not exist for them, because a change is favorable to them in this case, and they are concerned solely about a change that might be made in the present line. I think, and I said so in my statement, that we have a right to do work on the left bank of the river, provided that bank does not occupy the position that it did in 1852; consequently, they have no reason to complain of a work which not only does not make any use of the land invaded by the river, but which, owing to an excess of caution and delicacy, respects even the land of which the present alarmists are now in wrongful possession. They further allege that my labors do not constitute a revetment, but that they "project over the current of the river" (article III of the treaty of 1884.) In the first place, only in an entirely straight channel can there be a revetment that does not "project over the current;" in any river a simple revetment may be constructed, "projecting over the current," by merely taking advantage of the salient curves. In the second place, the treaty very wisely says that "they shall not project *unduly*," and it is not an undue projection if the current is made to deviate over land which is ours, as it would be if the line occupied the position that it did in 1852.

In the third place, the result of the works which I am now constructing will be that of a simple revetment.

* * * * *

I. GARFIAS.

A copy. Washington, November 12th, 1888.

C. ROMERO,
Secretary.

Mr. Bayard to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *November 14, 1888.*

Señor Don MATIAS ROMERO,
etc. etc. etc.

DEAR MR. ROMERO:

Following our understanding that you shall always be called into counsel when anything touching Mexican and American interests is involved, I would like to show you personally some correspondence I am having in relation to a dam projected across the Rio Grande at El Paso, which is said to be partly on United States soil,—and may seriously affect our riparian and boundary rights.

Your co-operation to make matters satisfactory to both sides will be welcome.

Yours sincerely,

T. F. BAYARD.

[Telegram.—Paraphrase.]

Mr. Bayard to Mr. Whitehouse.

DEPARTMENT OF STATE,
WASHINGTON, *November 14, 1888.*

WHITEHOUSE,

Chargé, Mexico.

A telegram received from the Mayor of El Paso states that the Mexican Government is constructing a dam entirely across Rio Grande opposite to and partly within El Paso City, part of dam being on dry land in Texas. Such work would be evidently violative of Article III Convention 1884 and invasive of territorial sovereignty. We learn work has been suspended to permit investigation. We propose to send competent federal engineer officers to make impartial examination. Suggest that Mexico take similar action so that there may be friendly co-operation between the two Governments.

BAYARD.

Memorandum of a conversation between Señor Romero and Mr. Adee.

[Stamp:] Secretary of State. Nov. 15. 1888.

Mr. Romero called at the Department at 10:45 in response to Mr. Bayard's private note of yesterday, suggesting a friendly conference in regard to the dams constructed on the Mexican side of the Rio Grande opposite El Paso—and as the Secretary was about to go to the Cabinet, Mr. Adee was requested to explain the circumstances to him.

Mr. Adee showed Mr. Romero Mr. Lightbody's telegram announcing that the dam in question extended entirely across the river, and on Texan soil within the limits of El Paso. He also showed Mr. Romero the telegram sent to Mr. Whitehouse at Mexico and a letter written to the Secretary of War, both announcing that this government would send a special engineer to El Paso to make an independent report touching the locality and character of the dam, and said that the Secretary was desirous that Mr. Romero should support as far as possible the suggestion made through Mr. Whitehouse, that the Mexican Gov't should in like manner cause investigation to be made by some competent officer, not concerned in the work itself.

Mr. Romero said he did not believe that the dam in question extended across the Rio Grande as represented.

In support of this he permitted Mr. Adee to send the whole of a recent letter from Señor Garfias—extracts from which accompanied his note to Mr. Bayard of the instant. He called attention to Mr. Garfias' statement—that while for reasons assigned Señor Garfias believed that it was entirely proper for him to construct works covering or affecting the whole of the present current of the river at that point, he had refrained from exercising what he believed to be his right—and was positive that the new dam (No. 6) would not interfere with the current as much as dam No. 5, lying above it and already completed.

Mr. Adee remarked that the argument of Mr. Garfias rested on the avowed assumption that the left bank of the river at El Paso, as well as the right bank, belonged to Mexico, and that any interference with the current within the territorial limits so claimed would not conflict with Art. 3 of the Treaty of 1884.

Mr. Romero said that Article was not retroactive and only concerned the changes in the river which might occur after it was

proclaimed, and that the changes at El Paso had taken place long before 1884, and therefore were determined by the Treaty of Guadalupe Hidalgo, and followed the line actually existing in 1852.

Mr. Adee said that would be a very serious contention if it should be advanced on behalf of Mexico; that he and Mr. Romero had jointly negotiated the Convention of 1884, and that its object was to apply consistently and completely the doctrines of international law to the determination of the questions raised by the shifting boundary of the river;—the fact that Señor Garfias had advanced so untenable a proposition showed that his information in regard to the work was partial from the outset, and justified the desire and expectation of this Gov't that an independent examination of the actual facts of the construction of this dam should be uninfluenced by any local sentiment for or against it.

Mr. Romero said that Mr. Garfias was no lawyer—only an engineer; that he did not know that any such contention with respect to the actual boundary line was contemplated; that he (Mr. R.) thought Mr. Garfias only referred to the popular impression existing in Ciudad Juarez and that if there was any chance of the extract from Señor Garfias' letter being regarded as an assertion of such a doctrine—he would withdraw that letter.

Mr. Adee said he saw no occasion for withdrawing the letter or regarding the subject as open for discussion, unless the proposition should be formally advanced by the Gov't of Mexico.

Mr. Romero took a note of the intention of the War Dep't to appoint Maj. Oswald H. Ernst of the Engineer Corps to examine the work, and said he would telegraph to his Government strongly recommending that it in like manner send an expert to the place.

A. A. ADEE.

Mr. Rives to Mr. Whitehouse.

No. 167.

DEPARTMENT OF STATE,
WASHINGTON, November 15, 1888.

H. REMSEN WHITEHOUSE, Esqre
&c. &c. &c.

SIR,

I herewith confirm my telegram to you of the 14th instant, as follows:

A telegram received from the Mayor of El Paso states that the Mexican Government is constructing a dam entirely across the

Rio Grande opposite to and partly within El Paso city, part of dam being on dry land in Texas. Such work would be evidently violative of Article III Convention 1884 and invasive of territorial sovereignty. We learn work has been suspended to permit investigation. We propose to send competent federal engineer officers to make impartial examination. Suggest that Mexico take similar action so that there may be friendly co-operation between the two governments.*

In this connection, I add a copy of my letter to the Secretary of War, of the 14th instant, asking, in view of all the circumstances, the detail of a competent officer of the Engineer Corps to examine the projected dam and make full report thereon; also a copy of a note from the Mexican Minister here, of the 12th instant, accompanied by extracts from an unofficial letter from Señor Ignacio Garfias engineer in charge of the construction of the work in question.

Governor Ross's letter of November 10th instant, upon which my telegram to you of the 14th instant, was founded, as well as my letter to the Secretary of War of that date, gave the entire text of Mayor Lightbody's telegram and simply requested "that the General Government take such action as may be necessary in the premises."

I sent this correspondence merely for your information, not doubting that upon the receipt of my telegram of yesterday, you immediately brought the complaint in question to the attention of Mr. Mariscal and urged upon him the necessity of having a full and impartial investigation and report made of the work of Señor Garfias by a competent Mexican federal officer in the same manner as this Government proposed to do, by employing a United States officer to visit El Paso for that purpose, as the surest and best means of determining whether the building of the projected dam or dams conflicts with the international rights of this government at that point."

I have just received with satisfaction your telegram of this morning, as follows:

"Mexican Government willing cooperate Rio Grande. Romero telegraphed yesterday to confer with you on the subject."

You will be advised by telegraph of the name of the officer appointed to conduct the examination on our part and the prob-

[* Telegram paraphrased.—Agents note.]

able date of his arrival at El Paso, with a view to obtaining for him all proper facilities for the execution of his task.

I am, &c

G. L. RIVES,
Acting Secretary.

Encl. Mr. Bayard to Mr. Endicott, Nov. 14, 1888. Encl.

“ Romero^a” “ Bayard, “ 12, “

[Inclosure.]

Mr. Bayard to Mr. Endicott.

DEPARTMENT OF STATE,
WASHINGTON, Nov. 14, 1888.

The Honourable

THE SECRETARY OF WAR.

SIR:

The Department has received from His Excellency the Governor of Texas, a copy of a telegram from the Mayor of the City of El Paso, as follows:

“ To His Excellency, Gov. Ross, *Austin.*

“ The Mexican Government is now constructing a substantial dam entirely across the Rio Grande, at a point opposite to and partly in this city with the intention of permanently changing the channel of the river. A large part of the dam is entirely on dry land and in Texas. Unless the work is at once arrested not only will the frontier be artificially changed but serious injury will be inflicted on Texas land owners. What do you advise me to do in order to protect the territory of the State and of the United States as the urgency of the case will hardly allow the delay necessary to obtain redress by the ordinary diplomatic channels.”

It is not known whether the dam so complained of, is in extension of the wing dams undertaken some years since upon the Mexican shore of the Rio Grande opposite the City limits of El Paso, or is a new work. A construction such as is above described would be in clear violation of the IIIrd. Article of the Rio Grande Boundary Convention of 1884 a copy of which is herewith enclosed, and so far as it may encroach upon the soil of Texas, invasive of the sovereignty of the United States.

The statements before this Department are not sufficiently definite or certain, and it is desirable that the facts should be competently and authentically ascertained.

To this end I have the honour to request that you will, if practicable cause a competent officer of the Engineer Corps of the

[^a For this inclosure see *supra*, p. 721.]

United States Army to proceed to El Paso, and examine and report touching the location and dimensions of the dam or dams projected on the part of Mexico, and their effect upon the Current of the rivers. This department will defray the mileage of such officer from his present station to El Paso and back again, on being advised of the cost thereof, with due voucher.

The United States Consul at Paso del Norte (now Ciudad Juarez) Mexico, will be instructed to obtain for the officer so detailed all possible facilities for making the desired investigation and for friendly conference with the Mexican Engineers in charge of the work in question.

I shall be greatly obliged for your speedy consideration of this request and that the officer you may select be instructed by telegraph to proceed without delay to El Paso and report as suggested.

It is not thought advisable to supply the officer with the various statements now before this Department, an original investigation on his part, unbiased by statements on either side, being deemed more conducive to a full understanding of the situation.

I have the honour to be, Sir,
Your obedient Servant.

T. F. BAYARD.

Enclosure.^a Copy of Convention with Mexico of Nov. 12/84.

Mr. Bayard to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *November 15, 1888.*

Señor Don MATIAS ROMERO,
etc. etc. etc

SIR:

I have the honor to acknowledge the receipt of your note of the 12th instant, accompanied by an extract from an unofficial letter from General Ignacio Garfino, touching the projecting dam at Paso del Norte, against the construction of which the city of El Paso, Texas, has made complaint to this Department.

As explained to you by Mr. Adee during your visit to the Department this morning,^b I have communicated to Mr. Whitehouse, the charge d'affaires *ad interim* of this government at the city of Mexico, the substance of the complaint of the Texan authorities, and suggested that, as this government had requested the

[^a For the text of the convention of 1884 see *supra*, p. 67.—Agent's note.]

[^b See *supra*, p. 724, for a memorandum of this interview.—Agent's note.]

Secretary of War to detail a competent federal engineer officer to proceed to El Paso, and investigate fully and impartially the work in question, the Mexican Government adopt a similar course, to the end that a speedy and just determination of the rights of each government may be thereby obtained and that a friendly cooperation on the part of the officers selected by the two governments might be assured.

I am now happy to inform you that I have just received a telegram from Mr. Whitehouse, dated the 15th instant, saying that the Mexican Government was willing to co-operate with the United States touching the complaint in question and that you had been instructed by telegraph to confer with me upon the subject, which was the intention of my personal note to you of yesterday.

Accept, etc.

T. F. BAYARD.

Mr. Whitehouse to Mr. Bayard.

No. 187.

LEGATION OF THE UNITED STATES,
MEXICO, *November 15, 1888.*

Hon. T. F. BAYARD,
Secretary of State.

SIR:

Yesterday afternoon I received your telegram, of same date, which read as follows:

“A telegram received from the Mayor of El Paso states that the Mexican Government is constructing a dam entirely across Rio Grande opposite to and partly within El Paso city part of dam being on dry land in Texas. Such work would be evidently violative of article 3 convention eighteen hundred eighty four, and invasive of territorial sovereignty. We learn work has been suspended to permit investigation; we propose to send competent federal engineer officers to make impartial examination. Suggest that Mexico take similar action, and that there may be friendly cooperation between the two governments.”^a

On receipt of this telegram I went at once to see Señor Mariscal, and, in order to save tiresome delays inevitable with formal notes, I handed him at the close of our conversation an abstract of your telegram.

Mr. Mariscal assured me that the action of the Mexican engineer in charge of the work in voluntarily suspending it when he found

[^a Telegram paraphrased.—Agents note.]

that discontent was felt on the American side, had been approved by the Ministry of Public Works; but he insisted that the American authorities were in error when they stated that a "dam" was being built, as the works were merely breakwaters or wing-dams to protect the Mexican banks from being washed away by the stream.

I remarked to Mr. Mariscal that even these "wing-dams" or "breakwaters" might be very detrimental to our side of the river as they would almost of necessity cause on the left bank the very damage they were constructed to prevent on the right.

Although Mr. Connery addressed a note to Mr. Mariscal concerning these wing-dams on February 24, last, this Legation has never received any answer to his note. I therefore requested Señor Mariscal to furnish me with the data in his possession in order that I might become conversant with the Mexican side of the question, and this he promised to do.

When I asked if the Mexican Government was inclined to send impartial engineers to cooperate with our own in endeavoring to reach a satisfactory and neighborly solution of the difficulty, I was assured that such action would fully coincide with the views of the Mexican Government.

Furthermore Mr. Mariscal informed me that he had already telegraphed Señor Romero to confer with you on the matter.

Consequently I sent you this morning the following telegram:

"Mexican Government willing cooperate Rio Grande. Romero telegraphed yesterday to confer with you on subject."

On receipt of Mr. Mariscal's promised note of data I will at once furnish the Department with a copy.

I am, Sir, very respectfully your obedient servant;

H. REMSEN WHITEHOUSE,

Chargé d'Affaires ad. int.

[Inclosure.]

Memorandum. Left with Mr. Marsical by Mr. Whitehouse.
Nov. 14, 1888.

This Legation is advised by telegram from Mr. Bayard that the Mayor of El Paso has informed the Department of State that the Mexican Government is constructing a dam entirely across the Rio Grande opposite to and partly within El Paso City, part of dam being on dry land in Texas. Such work will be evidently in

violation of Art. III of Convention of 1884, and invasive of territorial sovereignty. It is understood the work has been suspended to permit investigation. It is proposed by the United States Government to send competent Federal engineer officers to make impartial examination, and it is hoped the Mexican Government will do the same, and that there may be friendly cooperation.

Mexico, November 14, 1888.

Mr. Whitehouse to Mr. Bayard.

No. 190.

LEGATION OF THE UNITED STATES,
MEXICO, *November 16, 1888.*

Hon. T. F. BAYARD,
Secretary of State.

SIR:

Supplementing my despatch No. 187, of yesterday, in reply to your telegram of the 14th instant concerning the dam being constructed at Paso del Norte, I am now able, through the courtesy of Señor Mariscal, to furnish the Department with a copy of a telegram sent by the Mexican Consul at El Paso, dated the 10th instant.

The copy of the Consul's telegram is followed, as will be observed, by the Mexican engineer's remarks and statements on the subject.

Today I have wired our Consul at Paso del Norte as follows:

"Kindly furnish me at once with full particulars of dam being constructed at Paso del Norte."

I am, Sir, very respectfully, your obedient servant:

H. REMSEN WHITEHOUSE.

Chargé d'Affaires ad. int.

[Inclosure 1.]

Mr. Mariscal to Mr. Whitehouse.

Unofficial.

Copy.

MÉXICO, *Noviembre 15 de 1888.*

Mi estimado Señor WHITEHOUSE:

Como tengo ofrecido á Usted le envío en cópia algunos informes relativos á las obras emprendidas en Paso del Norte, tomados de un despacho que acabo de recibir de nuestro Cónsul en El Paso, Texas.

Soy de U. atento S. S.

(Sgd)

IGNO MARISCAL.

[Sub-inclosure.]

Extracto de un despacho del Cónsul Mexicano en El Paso, Texas, fechado el 10 de Noviembre de 1888, sobre las obras emprendidas en Paso del Norte.

Fué aprobado por el Concejo Municipal de El Paso la minuta de un telegrama que debía mandarse y se mandó al Gobernador de Texas, en el cual se presenta la cuestion de una manera exagerada y falsa, diciéndose "que el Gobierno de Mexico está construyendo un fuerte dique enteramente al través del rio, en un punto frente á esta Ciudad y *en parte de ella* con la intencion de cambiar permanentemente el canal del río; que un gran parte de tal dique está enteramente en terrenos de Texas; que si la obra no se suspende inmediatamente, la frontera se habrá cambiado artificialmente, y que serios perjuicios serian la consecuencia para los propietarios de dichos terrenos."

El Ingeniero mexicano encargado de la obra supongo ha de dar exacto informe sobre el particular; pero la inexactitud del informe dado al Gobernador de Texas resalta de las siguientes consideraciones:

Primera, que no es cierto que la parte del rio en donde se verifica tal trabajo sea la línea divisoria, la cual se halla á gran distancia al Norte, no habiendola cambiado hasta ahora los dos Gobiernos.

Segunda: que aunque fuese el rio, por donde ahora corre, el límite, y no donde corría el año de 52, que fué cuando se trazó la línea divisoria de una manera perpétuo, tal límite sería el medio ó centro del canal *normal* del rio, y no la pequeña corriente que ha quedado en esa parte hácia el lado derecho, ahora que el rio está seco; porque no puede haber sido tal la intencion de los autores del tratado de límites que quisieron fijar de una manera permanente tal línea, como en efecto se fijó por los Comisionados de ambos Gobiernos, y el trabajo de que se trata en nada afecta la línea media del referido canal.

Tercera, que tales trabajos, calculados científicamente, no proyectan de una manera indebida sobre la corriente del rio, puesto que están arreglados á un ángulo que arrojaría la corriente á una distancia á lo mas cinco veces mayor que el dique puesto, sin llegar al otro lado del rio; pero ni aun el centro de canal.

[Inclosure 2.]

[Translation.]

*Mr. Mariscal to Mr Whitehouse.**Unofficial.*

MEXICO, November 15, 1888.

My esteemed Mr. WHITEHOUSE:

As I promised you, I send you herewith copy of some data relative to the works under way at Paso del Norte, found in a despatch I have just received from our Consul at El Paso, Texas.

I am,

Your esteemed servant, etc.

IGNO. MARISCAL.

[Sub-inclosure.]

[Translation.]

Extract from a Despatch from the Mexican Consul at El Paso, Texas, dated Nov. 10, 1888, relative to the works undertaken at Paso del Norte.

The Municipal Board of El Paso approved the text of a telegram to be sent, and which was sent, to the Governor of Texas, which presented the question in a false and exaggerated light, saying: "that the Government of Mexico is constructing a strong dam entirely across the river at a point opposite to and *partly within* that City, with the intent of permanently changing the river-channel; that a large part of said dam is entirely on Texas soil; that, if the work be not at once suspended, the frontier will be artificially changed, and that serious damage will, in consequence, accrue to the owners of the said lands."

The Mexican Engineer in charge of the works, I suppose, will give exact information in the case; but the inaccuracy of the report rendered to the Governor of Texas is apparent from the following considerations:

First: It is not true that the part of the River in which the works are conducted is the boundary line, that line lying a great distance to the north, and not having yet been changed, by the two Governments.

Second: Granting that the river, as it now runs, and not as it ran in 1852, when the boundary line was designated for all time, is the limit, said limit should be the centre or middle of the *normal* channel of the river, and not of the slight current which runs at that point along the right bank, now that the river is dry; for such could not have been the intent of the framers of the Boundary

Treaty, who desired to fix said boundary for all time, as, in effect, the Commissioners of both Governments did do; and the works in question in no wise affect the mean line of the channel referred to.

Third: The said works, scientifically planned as they are, do not unduly trespass upon the river channel, for they are arranged to an angle that should deflect the current to a distance of not over five times the extent of the dam; not allowing said current to reach the opposite bank; nor even the center of the river channel.

Mr. Bayard to Mr. Whitehouse.

[Telegram—paraphrase.]

DEPARTMENT OF STATE,
WASHINGTON, November 17, 1888.

WHITEHOUSE, *Chargé, Mexico.*

Major Oswald H. Ernst detailed to visit El Paso will probably leave Washington Monday. Express satisfaction at promised Mexican co-operation, and request proper facilities for Major Ernst.

BAYARD.

Mr. Whitehouse to Mr. Bayard.

No. 194. LEGATION OF THE UNITED STATES,
MEXICO, November 19, 1888.

Hon. T. F. BAYARD,
Secretary of State.

SIR:

On Saturday the 17th instant I received from you a telegram which read as follows:

“Major Oswald (5^v) Ernst detailed to visit El Paso. Will probably leave Washington Monday. Express satisfaction at promised Mexican cooperation, and request proper facilities for Major Ernst.”

As I was not able to see Mr. Mariscal personally I sent him early this morning the enclosed note, requesting that he would be kind enough to inform me at his earliest convenience of the appointment of the Mexican engineer detailed to cooperate with Major Ernst.

On receipt of the desired information I will wire you for an abstract.

I am, Sir, very respectfully

Your obedient servant;

H. REMSEN WHITEHOUSE,
Chargé d’Affaires ad. int.

[Inclosure.]

*Mr. Whitehouse to Mr. Mariscal.*LEGATION OF THE UNITED STATES,
MEXICO, *November 19, 1888.*

SIR:

Referring Your Excellency to our recent conversation concerning the desire of my Government to send a competent Federal engineer to confer with one appointed by the Mexican Government in regard to the wing-dams actually being constructed at Paso del Norte, and to the opinion Your Excellency then expressed that such a proceeding would be entirely in accordance with the Mexican Government's desire, I have now to state that I am in receipt of a telegram from Mr. Bayard, which informs me that Major Oswald Ernst has been detailed for this purpose.

Major Ernst will leave Washington today (November 19) for El Paso.

It is confidently hoped that Your Excellency's Government will grant Major Ernst every facility for the accomplishment of the mission with which he is intrusted.

I am further requested to express to Your Excellency the great satisfaction of my Government at the promised cooperation of the Mexican engineers in this important matter.

Sincerely trusting that a speedy settlement may be reached which shall prove equally satisfactory to both parties interested, and with the earnest request that Your Excellency will kindly inform me at your earliest convenience of the appointment of the Mexican engineer detailed to cooperate with Major Ernst.

I am Your Excellency's most obedient servant,

H. REMSEN WHITEHOUSE.

To His Excellency,

IGNACIO MARISCAL,

etc. etc. etc.

Mr. Whitehouse to Mr. Bayard.

No. 195.

LEGATION OF THE UNITED STATES,
MEXICO, *November 20, 1888.*

Hon. T. F. BAYARD,

Secretary of State.

SIR:

In supplement to my despatch No. 194, of yesterday, I today sent you the following telegram: "am informed facilities will be granted Major Ernst, and Mexican engineer appointed forthwith."

This message I sent you in consequence of a communication received this morning from Señor Mariscal, informing me that the request has been made to the Department of Public Works in order that the latter may hasten to send an engineer to cooperate with Mr. Garfias, the engineer in charge at Paso del Norte, and his American colleagues in the matter of the dams being constructed at that place; and that the same Department may issue the necessary instructions to facilitate Major Ernst in the accomplishment of his mission.

I am, Sir, very respectfully

Your obedient servant;

H. REMSEN WHITEHOUSE

Chargé d'Affaires ad. int.

[Inclosure 1.]

Señor Mariscal to Mr. Whitehouse.

SECRETARÍA DE RELACIONES EXTERIORES,

MEXICO, *Noviembre 19 de 1888.*

Señor ENCARGADO DE NEGOCIOS:

Tengo la honra de acusar recibo de la atenta nota de Usted de esta fecha en la cual se sirve comunicarme que hoy mismo sale Washington el Señor Oswald Ernst, ingeniero comisionado por el Gobierno de los Estados Unidos para conferenciar con el ingeniero que sea nombrado por el Gobierno Mexicano, acerca de las obras que se construyen en el Rio Bravo, frente á Paso del Norte.

En respuesta manifiesto á Usted que he dado el correspondiente aviso á la Secretaría de Fomento, á fin de que se sirva apresurar el envío del ingeniero que ha de asociarse al Señor Don Ignacio Garfías para esa conferencia, y que dicte las órdenes necesarias para facilitar al Señor Ernst el cumplimiento de su comision.

Renuevo á Usted las protestas de mi atenta consideracion.

(Sgd)

IGNO. MARISCAL.

Señor H. REMSEN WHITEHOUSE,

Encargado de Negocios, Mexico.

[Inclosure 2.]

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,

MEXICO, *November 19, 1888.*

Mr. CHARGÉ, etc:

I have the honor to acknowledge receipt of your esteemed note, of today, wherein you were pleased to inform me that Mr. Oswald Ernst, an engineer commissioned by the Government of the United

States to confer with the engineer to be appointed by the Mexican Government in regard to the works under construction opposite Paso del Norte, in the Rio Bravo, was to leave Washington today.

In reply, I herewith advise you that I have furnished the necessary information to the Department of Public Works, in order that the latter may hasten to send on the engineer who is to be associated with Mr. Ignacio Garfias in that conference, and that the same Department may issue the requisite instructions to facilitate Mr. Ernst in the accomplishment of his mission.

I renew to you the protests of my esteemed consideration.

IGNO. MARISCAL.

[To Mr. H. REMSEN WHITEHOUSE, *etc. etc.*

Mexico.

[Inclosure 3.]

Mr. Whitehouse to Mr. Mariscal.

LEGATION OF THE UNITED STATES,

MEXICO, *November 20, 1888.*

SIR:

I am much gratified at the receipt of Your Excellency's note of yesterday informing me that Your Excellency had made the necessary request to the Department of Public Works, in order that that Department might hasten to send an engineer to cooperate with Mr. Garfias, and his American colleagues, concerning the construction of the wing-dams at Paso del Norte.

I can confidently assure Your Excellency that the prompt manner in which Your Excellency's Government have acceded to the request of the United States in this matter, will be duly and sincerely appreciated by my Government. I also beg to express to Your Excellency, in the name of my Government, hearty thanks for the facilities so courteously promised Major Ernst.

With the full assurance that the result of the Conferences between our respective engineers may prove entirely satisfactory to both parties, I renew to Your Excellency the assurance of my highest regard.

H. REMSEN WHITEHOUSE.

To His Excellency,

IGNACIO MARISCAL, *etc. etc.*

Mr. Bayard to Mr. Whitehouse.

No. 173.

DEPARTMENT OF STATE.

WASHINGTON, *November 27, 1888.*

H. REMSEN WHITEHOUSE, Esqre

&c. &c. &c.

SIR,

Your No. 190 of the 16th instant, has been received.

Representations based upon a personal letter of the Engineer in charge of the works on the Mexican side of the River, and so similar to the statements contained in the telegram from the Mexican Consul at El Paso, as to suggest a common origin, were informally made to me by Señor Romero; but, with reference to the intimation that the boundary line remains where it was laid by the survey made under the treaty of 1853, irrespective of the gradual changes which have since slowly taken place in the current and bed [thalweg] of the river, Señor Romero expressly disclaimed any intention to advance any such proposition on the part of his Government. The conjectures of Señor Garfias, who as Señor Romero remarked is not an international jurist but an engineer, cannot be assumed to foreshadow a contention on the part of Mexico so opposed to the consensus of authority as to the effect of slow changes of a riparian frontier, which was adopted in the Convention of November 12, 1884 as the test by which the Rio Grande questions should be decided. Any discussion on this point appears to be wholly premature and the only object at present in view is to ascertain the actual character, location and effect of the dam or dams now in process of construction in order that this Department may be enabled to judge the merits of the complaints presented by the city authorities of El Paso, Texas.

Full reports have been received here from Mr. Mackey, our Consul at Ciudad Juarez. They do not, however, supply the scientific testimony which we look for from Major Ernst's report.

While there is no objection to your calling on Mr. Mackey for information, as you have done, it is undesirable that any use be made of it to invite discussion, or join issue as to questions of international law and treaty which may be involved or which the Mexican Government may eventually see fit to raise.

I enclose for your information, a copy of the instructions given to Major Ernst, from which you will see that he is required to make simply a report as to the existing facts in the case, without discus-

sion of statements heretofore made on either side, or of points of international law.

I am, &c.

T. F. BAYARD.

Encl. Mr. Bayard to Major Ernst, Nov. 19/88.

[Inclosure.]

Mr. Bayard to Major Ernst.

DEPARTMENT OF STATE,

Washington, November 19, 1888.

SIR: This Department having made application to the Department of War, for the detail of a competent officer of Engineers to proceed to El Paso, Texas, there to examine and report upon certain works, called "espolones," or wing-dams, in process of construction on the Mexican Shore and alleged to be for the protection of the river line of Paso del Norte (now Ciudad Juarez) from the action of the current, and you having been detailed for that work, and directed by general orders No. 62, of the 16th instant, to report to the Secretary of State for instructions, I have now the pleasure to instruct you as follows:

1.—The object of your investigation as described in this Department's letter of the 14th instant, to the Secretary of War, (copy of which is herewith inclosed), will be to ascertain the location, character, and extent of the dams in question and the degree of their interference, if any, with the existing current of the river at high or low water.

2.—Incidentally it will be proper to give your opinion, as an expert, whether the works in question are in conformity with those permitted by the III Article of the Convention of November 12, 1884, of which a copy is inclosed, together with copies of Article V, of the Treaty of 1848 and Article I of the treaty of 1853, which are therein referred to.

3.—It is understood that the Mexican Government will similarly detail a competent federal engineer officer, not heretofore associated with the works in question to make an independent report. It is desirable that you and the Mexican officer, so to be detailed, should meet and exchange views touching the character and effects of the dams referred to.

4. It is not expected that you will discuss with the Mexican officer, or with any other authority, the points of international law which may call for interpretation in connection with the pertinent articles of the three treaties of 1848, 1853, and 1884

above referred to. But your report should include, if possible, an approximate statement of the actual changes in the river-bed which may have occurred since the boundary survey of Major Emory, in 1855, at the point in question. A copy of sheet No. 29 of Major Emory's boundary chart is furnished you for comparison.

5. A special passport and a letter of introduction to the United States consul at Ciudad Juarez, Mr. Bickford Mackay, are inclosed. Mr. Mackay will be instructed to render you all proper aid and facilities in the execution of your task.

6. By an understanding with the War Department, your mileage from Roxbury, Mass., to El Paso and back again, will be defrayed by this Department and the necessary voucher therefor will be made out by you in conformity with the rules and requirements of the War Department and presented here for settlement on the conclusion of your labors. Should you deem any tracings or plans of the dams in question and of the river-bed and shores affected thereby, or photographs of the works necessary to elucidate your report, the reasonable expense of the same will be defrayed by this Department.

7. If convenient, on your homeward return, you may report here in person to this Department. If such personal visit is not convenient to you, you may send your written report, accompanied by the account for mileage and vouchers, as above, through the War Department.

Your mission is one of some delicacy, and you are relied upon to execute it with good discretion and thoroughness, so essential to an understanding of the situation at El Paso and a judgment of the question involved.

I am, etc.,

T. F. BAYARD.

Señor Romero to Mr. Bayard.

LEGACION MEXICANA,
WASHINGTON, 4 de Diciembre de 1888.

Señor SECRETARIO:

Un Diputado del Estado de Texas presentó el 17 de Febrero del presente año, á la Cámara de Representantes del Congreso de los Estados Unidos, una proposicion (joint resolution) para que se autorizara al Presidente á negociar con el Gobierno de México, el establecimiento de una Comision internacional de límites que determinara, conforme á las reglas adoptadas en la Convencion firmada en Washington el 12 de Noviembre de 1884 todas las

cuestiones referentes á la linea divisoria entre las dos Repúblicas en la parte que sigue el lecho de los rios Bravo del Norte y Colorado.

Esta proposicion pasó á la Comision de Relaciones Exteriores de la Cámara de Diputados, la cual dictaminó unánimemente en su favor, el 10 de Marzo siguiente y el 25 de Setiembre último fué aprobada por la Cámara de Diputados, pasando al Senado para los efectos constitucionales.

Es probable que hubiese merecido tambien la aprobacion del Senado, si se hubiera presentado con alguna anticipacion, pues cuando llegó á aquella Cámara estaba ya para cerrarse el último periodo de sesiones del Congreso de los Estados Unidos, y probablemente á esta circunstancia se debe el que no se tomara en consideracion.

Creyendo, por lo mismo, que aquella proposicion expresa la opinion del Poder legislativo de los Estados Unidos y que el Poder Ejecutivo esta tambien conforme con ella, pues asi aparece de un fragmento de una comunicacion del Departamento de Estado dirigida á la Comision de Relaciones Exteriores de la Cámara de Diputados, que se insertó en el dictamen de dicha Comision; y siendo el nombramiento de la Comision internacional de límites un complemento indispensable del tratado de 12 de Noviembre de 1884, he formulado un proyecto de Convencion, que ha sido aprobado por el Gobierno de México y que remito á Ud., para que se sirva examinarlo, con objeto de llegar á un arreglo definitivo sobre este asunto, pues estoy autorizado por mi Gobierno para negociar esa Convencion.

Considero innecesario detenerme á esplicar las bases del proyecto adjunto, porque creo que estan expresadas en él con la claridad suficiente.

Sírvase Ud., aceptar, Señor Secretario, las seguridades de mi mas distinguida consideracion.

M. ROMERO.

Anexo:—El proyecto de Convencion.

Hon. THOMAS F. BAYARD,
etc., etc., etc.

[Inclosure.]

Los Estados Unidos Mexicanos y los Estados Unidos de América, deseando facilitar la ejecucion de los principios contenidos en el tratado de 12 de Noviembre de 1884 y evitar las dificultades ocasionadas con motivo de los cambios que tienen lugar en el cauce de los rios Bravo del Norte y Colorado, en la parte que

sirven de límite entre las dos Repúblicas, han resuelto concluir un tratado que satisfaga estos objetos, y han nombrado sus respectivos Plenipotenciarios,

El Presidente de los Estados Unidos Mexicanos á Matias Romero, Enviado Extraordinario y Ministro Plenipotenciario de los Estados Unidos Mexicanos, en Washington; y

El Presidente de los Estados Unidos de América á Thomas F. Bayard, Secretario de Estado de los Estados Unidos de América;

Quienes despues de haberse mostrado sus respectivos plenos poderes y encontrádoslos en buena y debida forma, han convenido en los artículos siguientes:

ARTÍCULO I.

Todas las diferencias ó cuestiones que se susciten en la parte de la frontera entre los Estados Unidos Mexicanos y los Estados Unidos de América, en que sirven de linea divisoria los rios Bravo del Norte y Colorado, ya sea que provengan de alteraciones ó cambios en el lecho de los expresados rios Bravo del Norte y Colorado, ya de obras que se construyan en los mismos, ó ya de cualquiera otro motivo que afecte á la linea fronteriza, se someterán al examen y decision de una Comision internacional de límites, la cual tendrá jurisdicción exclusiva sobre dichas diferencias ó cuestiones.

ARTÍCULO II.

La Comision internacional de límites se compondrá de un Comisionado nombrado por el Presidente de los Estados Unidos Mexicanos, y otro nombrado por el Presidente de los Estados Unidos de América, conforme á las prescripciones constitucionales de cada pais, de un Ingeniero consultor, nombrado en la misma forma por cada Gobierno, y de los Secretarios é intérpretes que cada Gobierno crea conveniente agregar á su respectiva Comision. Cada Gobierno fijará separadamente los sueldos y emolumentos de los miembros de su Comision.

ARTÍCULO III.

La Comision internacional de límites no podrá funcionar sino cuando estuvieren presentes los dos Comisionados. Residirá precisamente en la frontera de los dos paises contratantes y se establecerá en los lugares que ella determinare; pero se trasladará sin dilacion á los lugares en que ocurra cualquiera de las dificultades ó cuestiones mencionadas en la presente Convencion, tan luego como se le haga la notificacion correspondiente.

ARTÍCULO IV.

Cuando por causas naturales ocurriere alguna alteracion en el cauce del rio Bravo del Norte ó del rio Colorado, en la parte en que estos rios sirven de límite entre los dos paises, que afecte la linea divisoria, se notificará este hecho por la autoridad local respectiva de uno ú otro lado, al Comisionado respectivo de la Comision internacional de límites, la cual tendrá obligacion de trasladarse al lugar del cambio ó cuestion, examinará personalmente el cambio indicado, lo comparará con el cauce que seguía el rio antes que este cambio tuviere lugar, segun aparezca de los planos respectivos, y decidirá si se ha verificado por avulsion ó corrosion, para los efectos de los artículos I y II de la Convencion de 12 de Noviembre de 1884, haciendo las anotaciones correspondientes en los planos de la línea divisoria.

ARTÍCULO V.

Siempre que la autoridad local de cualquier punto de la frontera entre los Estados Unidos Mexicanos y los Estados Unidos de América, en la parte en que los rios Bravo del Norte y Colorado sirven de límite á los dos paises, creyere que se estan construyendo obras en cualquiera de estos rios, que sean de las prohibidas por el artículo III de la Convencion de 12 de Noviembre de 1884, ó por el artículo VII del Tratado de Guadalupe Hidalgo, de 2 de Febrero de 1848, lo notificará al Comisionado respectivo, para que este someta, desde luego, el punto á la Comision internacional de límites, y esta proceda conforme á las prescripciones del artículo precedente á examinar el caso y decida si la obra es de las permitidas ó de las prohibidas por las estipulaciones de aquellos tratados.

La Comision podrá suspender provisionalmente la construccion de las obras en cuestion, mientras se examina el asunto y si no se pusiese de acuerdo sobre este punto, se suspenderán las obras, á peticion de uno de los dos Gobiernos.

ARTÍCULO VI.

En cualquiera de estos casos, la Comision hará un examen personal del asunto que motivare el cambio, cuestion ó queja, y dará su fallo respecto del mismo, para lo cual observará los requisitos que establezca un reglamento formado por la misma Comision y aprobado por los dos Gobiernos.

ARTÍCULO VII.

Si ambos Comisionados estuvieren de acuerdo en una resolucion, su fallo se considerará obligatorio para los Gobiernos respectivos, á no ser que alguno de ellos lo desaprobare dentro de un mes contado desde el dia en que se pronuncie. En este último caso, ambos Gobiernos se avocarán el conocimiento del asunto y lo decidirán amistosamente, en la forma que les pareciere justificada y conveniente, teniendo siempre presente la estipulacion del artículo XXI del tratado de Guadalupe Hidalgo, de 2 de Febrero de 1848.

Otro tanto sucederá cuando los Comisionados no se pongan de acuerdo respecto del punto que motiva la cuestion, queja ó cambio, en cuyo caso cada Comisionado formulará un dictámen por escrito que presentará á su respectivo Gobierno.

ARTÍCULO VIII.

La presente Convencion será ratificada por ambas partes, de acuerdo con sus respectivos procedimientos constitucionales y las ratificaciones se cangearán en la ciudad de Washington, tan pronto como fuere posible.

En testimonio de lo cual, los Plenipotenciarios infrascritos la han firmado y sellado.

Hecha por duplicado en la ciudad de Washington, en las lenguas Española é Inglesa el dia de de mil ochocientos ochenta y

[Translation.]

LEGATION OF MEXICO.

Washington, December 4th, 1888.

Mr. SECRETARY:

A representative from the State of Texas introduced in the House of Representatives of the United States, on the 17th of February last, a joint resolution authorizing the President to enter into negotiations with the Government of Mexico for the appointment of an International Boundary Commission for the settlement, in accordance with the rules adopted in the convention signed at Washington on the 12th of November, 1884, of all questions connected with the boundary line between the two Republics, in that portion thereof which follows the bed of the Rio Grande and that of the Colorado River.

This joint resolution was referred to the Committee on Foreign Relations of the House of Representatives, which, on the 10th of

March following, unanimously reported in its favor, and, on the 25th of September last, it was passed by the House of Representatives, after which it went to the Senate for the action of that body-

It would probably have been passed by the Senate, if it had reached that body somewhat earlier. When it did reach the Senate, the last session of the U. S. Congress was about to close, and the fact that it failed to receive consideration is probably due to this circumstance.

As I consequently believe that the said Joint resolution expresses the opinion of the Legislative branch of the United States Government, and that the Executive branch shares this opinion, since this is indicated by an extract from a communication from the Department of State, addressed to the House Committee on Foreign Relations; and as the appointment of an International Boundary Commission is an indispensable complement of the treaty of November 12th, 1884. I have prepared a draft of a convention, which has been approved by the Government of Mexico, and which I send to you, in order that you may be pleased to examine it, so that a final arrangement of this matter may be reached, for I am authorized by my Government to negotiate such a convention.

I deem it unnecessary for me to stop to explain the bases of the enclosed draft, because I think that they are therein expressed with sufficient clearness.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

HON. THOMAS F. BAYARD, &c., &c., &c.

Enclosure: The draft of a convention.

[Inclosure.]

[Translation.]

The United States of Mexico and the United States of America, desiring to facilitate the carrying out of the principles contained in the treaty of November 12th, 1884, and to avoid the difficulties occasioned by reason of the changes which take place in the bed of the Rio Grande and that of the Colorado river, in that portion thereof where they serve as a boundary between the two Republics, have resolved to conclude a treaty for the attainment of these objects, and have appointed as their respective Plenipotentiaries:

The President of the United States of Mexico, Matias Romero, Envoy Extraordinary and Minister Plenipotentiary of the United States of Mexico at Washington; and

The President of the United States of America, Thomas F. Bayard, Secretary of State of the United States of America;

Who, after having exhibited their respective full powers, and having found the same to be in good and due form, have agreed upon the following articles:

ARTICLE I.

All differences or questions that may arise on that portion of the frontier between the United States of Mexico and the United States of America where the Rio Grande and the Colorado River form the boundary line, whether such differences or questions grow out of alterations or changes in the bed of the aforesaid Rio Grande and that of the aforesaid Colorado River, or of works that may be constructed in said rivers, or of any other cause affecting the boundary line, shall be submitted for examination and decision to an International Boundary Commission, which shall have exclusive jurisdiction in the case of said differences or questions.

ARTICLE II.

The International Boundary Commission shall be composed of a Commissioner appointed by the President of the United States of Mexico, and of another appointed by the President of the United States of America, in accordance with the constitutional provisions of each country, of a Consulting Engineer, appointed in the same manner by each Government, and of such Secretaries and Interpreters as either Government may see fit to add to its Commission. Each Government, separately, shall fix the salaries and emoluments of the members of its commission.

ARTICLE III.

The International Boundary Commission shall not transact any business unless both Commissioners are present. It shall sit on the frontier of the two contracting countries, and shall establish itself at such places as it may determine upon; it shall, however, repair to places at which any of the difficulties or questions mentioned in this convention may arise, as soon as it shall have been duly notified thereof.

ARTICLE IV.

When, owing to natural causes, any change should have taken place in the bed of the Rio Grande or in that of the Colorado River, in that portion thereof wherein those rivers form the boun-

dary line between the two countries, which may affect the boundary line, notice of that fact shall be given by the proper authorities on both sides to their respective Commissioner of the International Boundary Commission, on receiving which notice it shall be the duty of the said Commission to repair to the place where the change has taken place or the question has arisen, to make a personal examination of such change, to compare it with the bed of the river as it was before the change took place, as shown by the surveys, and to decide whether it has occurred through avulsion or erosion, for the effects of articles I and II of the convention of November 12th, 1884; having done this, it shall make suitable annotations on the surveys of the boundary line.

ARTICLE V.

Whenever the local authorities on any point of the frontier between the United States of Mexico and the United States of America, in that portion in which the Rio Grande and the Colorado River form the boundary between the two countries, shall think that works are being constructed, in either of those rivers, such as are prohibited by article III of the convention of November 12th, 1884, or by article VII of the treaty of Guadalupe Hidalgo of February 2d, 1848, they shall so notify their respective Commissioners, in order that the latter may at once submit the matter to the International Boundary Commission, and that said Commission may proceed, in accordance with the provisions of the foregoing article, to examine the case, and that it may decide whether the work is among the number of those which are permitted, or of those which are prohibited by the stipulations of those treaties.

The Commission may provisionally suspend the construction of the works in question pending the investigation of the matter, and if it shall fail to agree on this point, the works shall be suspended, at the instance of one of the two Governments.

ARTICLE VI.

In either of these cases, the Commission shall make a personal examination of the matter which occasions the change, the question or the complaint, and shall give its decision in regard to the same, in doing which it shall comply with the requirements established by a body of regulations to be prepared by the said Commission and approved by both Governments.

ARTICLE VII.

If both Commissioners shall agree to a decision, their judgment shall be considered binding upon both Governments, unless one of them shall disapprove it within one month reckoned from the day on which it shall have been pronounced. In the latter case, both Governments shall take cognizance of the matter, and shall decide it amicably, bearing constantly in mind the stipulation of article XXI of the treaty of Guadalupe Hidalgo of February 2d, 1848.

The same shall be the case when the Commissioners shall fail to agree concerning the point which occasions the question, the complaint or the change, in which case each Commissioner shall prepare a report, in writing which he shall lay before his Government.

ARTICLE VIII.

This convention shall be ratified by both parties, in accordance with the provisions of their respective constitutions, and the ratifications thereof shall be exchanged at Washington as speedily as possible.

In testimony whereof the undersigned plenipotentiaries have signed and sealed it.

Done in duplicate, in the city of Washington, in the Spanish and English languages, on the — day of — one thousand eight hundred and eighty.

Señor Romero to Mr. Bayard.

LEGACIÓN MEXICANA,
WASHINGTON, *Diciembre 6 de 1888.*

Señor SECRETARIO:

Tengo la honra de informar á Usted, que el Señor Mariscal, Secretario de Relaciones Exteriores de los Estados Unidos Mexicanos, me avisa con fecha 22 de Noviembre próximo pasado que en virtud del acuerdo tenido con el Gobierno de los Estados Unidos, nombró el Gobierno de México al Ingeniero Don Felipe Zavalza en comisión para que asociado al Ingeniero Don Ignacio Garfias, conferencien con el Comandante de Ingenieros del Ejército de los Estados Unidos, Mr. Oswald. H. Ernst, comisionado de este Gobierno sobre la cuestión técnica suscitada con motivo de la construcción de obras en el rio Bravo del Norte, y que por informes posteriores que he tenido de Paso del Norte, sé que estaban ya en aquella ciudad los dos Ingenieros mexicanos y el Ingeniero de los Estados Unidos.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. THOMAS FRANCIS BAYARD, etc.

{Translation.}

MEXICAN LEGATION,
WASHINGTON, *December 6, 1888.*

Mr. SECRETARY:

I have the honor to inform you that Mr. Mariscal, Secretary of Foreign Affairs of the United Mexican States advises me, under date of November 22 last, that by virtue of the agreement reached with the Government of the United States, the Mexican Government has appointed the engineer Felipe Zavalza to confer, together with engineer Ignacio Garfias, with the commander of engineers of the U. S. Army, Mr. Oswald H. Ernst, commissioner of this Government with regard to the technical question raised in connection with the construction of works in the Rio Grande river, and that according to subsequent information I have received from Paso del Norte, I know that the two Mexican engineers and the U. S. engineer were in that city already.

Please accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. THOMAS FRANCIS BAYARD, etc.

Mr. Bayard to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *December 7, 1888.*

Señor DON MATIAS ROMERO,

etc. etc. etc.

SIR:

I have the honor to acknowledge the receipt of your note of the 6th instant, announcing the appointment of Don Felipe Zavalza and Don Ignacio Garfias as a commission on the part of Mexico to meet and confer with Major Oswald H. Ernst, of the United States Engineer Corps, regarding the projected dam in course of construction on the Mexican side of the Rio Grande opposite El Paso, Texas.

Accept, etc.

T. F. BAYARD.

Señor Romero to Mr. Bayard.

LEGACIÓN MEXICANA,
WASHINGTON, *Enero 25 de 1889.*

Señor SECRETARIO:

Examinando de nuevo el proyecto de Convención para organizar una Comisión Internacional de límites, que decida las cuestiones que se susciten en la frontera entre México y los Estado-Unidos, que remití á Usted con mi nota de 4 de Diciembre de 1888, encuentro que le faltan algunas disposiciones indispensables para que surta el efecto deseado; y con este objeto he formulado un artículo que remito á Usted, suplicándole lo tenga como parte de mi proyecto citado.

La Convención propuesta por mi, tiene por objeto crear un tribunal que aplique las reglas adoptadas por ambos Gobiernos en la Convención de 12 de Noviembre de 1884.—Sin ese tribunal, no podrían tener su aplicación práctica, porque quedando á cargo de los dos Gobiernos, se haría extraordinariamente difícil la solución de las cuestiones que se susciten.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Anexo: Copia en español, del artículo mencionado.

Hon. THOMAS FRANCIS BAYARD,

etc., etc., etc.

[Inclosure.]

ARTÍCULO.

La Comisión Internacional de límites, tendrá facultad de pedir documentos é informes, y las autoridades de cada uno de los dos países tendrán el deber de enviarle cualesquiera documentos que ella les pida, referentes á cualquiera cuestión de límites en que tenga jurisdicción conforme á esta Convención.

La misma Comisión tendrá facultad de citar á los testigos cuyas declaraciones crea conveniente tomar, y las personas citadas tendrán el deber de comparecer ante la misma y de dar sus declaraciones, las cuales se tomarán de conformidad con las leyes y reglamentos que adopte la Comisión y aprueben ambos Gobiernos. En caso de que algun testigo se rehuse á comparecer, se le obligará á ello, usando al efecto la Comisión de los mismos árbitrios que tengan los tribunales del país respectivo para hacer comparecer á los testigos, de acuerdo con su respectiva legislación.

[Translation.]

LEGATION OF MEXICO.

WASHINGTON, *January 25th, 1889.*

Mr. SECRETARY:

On re-examining the draft of a convention for the organization of an International Boundary Commission to settle such questions as may arise on the frontier between Mexico and the United States, which I sent to you as an enclosure to my note of December 4th, 1888, I find that some provisions are therein wanting which are absolutely necessary to enable it to have the effect that is desired. I have consequently prepared an article which I herewith transmit to you, begging you to consider it as a part of my aforesaid draft.

The object of the treaty proposed by me is the creation of a tribunal to enforce the rules adopted by both Governments in the convention of November 12th, 1884. Without such a tribunal, these rules could not be practically enforced, because, the two Governments having charge of these matters, the settlement of such questions as might arise would be unusually difficult.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. THOMAS FRANCIS BAYARD, *etc., etc., etc.*

Enclosure:—A copy, in Spanish, of the article mentioned.

[Inclosure.]

[Translation.]

ARTICLE.

The International Boundary Commission shall have power to call for papers and information, and it shall be the duty of the authorities of each of the two countries to send it any papers that it may call for, relating to any boundary question in which it may have jurisdiction in pursuance of this convention.

The said Commission shall have power to summon any witnesses whose testimony it may think proper to take, and it shall be the duty of all persons thus summoned to appear before the same and to give their testimony, which shall be taken in accordance with such by-laws and regulations as may be adopted by the Commission and approved by both Governments. In case of the refusal of a witness to appear, he shall be compelled to do so, and to this end the Commission may make use of the same means that are used by the courts of the respective countries to compel the attendance of witnesses, in conformity with their respective laws.

Mr. Bayard to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *February 27, 1889.*

SEÑOR DON MATIAS ROMERO,
etc. etc. etc.

SIR:

If I have deferred until now a formal response to your two notes of the respective dates of December 4th 1888, and January 25th 1889, on the subject of a Convention between the United States and Mexico for the institution of an International Boundary Commission for the settlement, in accordance with the rules laid down in the Convention signed at Washington on the 12th of November, 1884, of all questions connected with the boundary line between the two Republics, in that portion thereof which follows the bed of the Rio Grande and of the Colorado River, it is because I have been awaiting the expression of the views of the Congress of the United States upon the general question as expressed in a Joint Resolution introduced in the House of Representatives on the 17th of April last, and which, after adoption by that body, on the 25th of September following, is now pending in the Senate.

In the course of the conferences which I have recently had with you in regard to the Supplementary Convention, for the revival of the Boundary Convention of July 29, 1882, and the extension of the time within which, under its provisions, to relocate and mark with lasting monuments the frontier line between the two countries westward of the line of the Rio Grande and the Colorado Rivers, we have frequently adverted to the expediency and indeed the absolute necessity of ascertaining at the same time the actual river line under the aforesaid convention of July 29, 1882, whenever the changes in the current of the Rio Grande and the Colorado River should cause a variation of that line from the boundary laid down by the Boundary Commission appointed under the provisions of the Treaty of Guadalupe-Hidalgo of 1848, and, now that we are in accord as to the revival and prolongation of the convention for the relocation of the land boundary, it appears most advisable that our joint labors in the interest of removing all possible ground of differences between two adjacent and intimately friendly nations in respect of the demarcation of their common frontier should be completed by including the fluvial boundary also in a conventional accord. This duty seemed to us to be specially enjoined by the recent occurrences at Paso del Norte (Ciudad Juarez), where the measures taken to protect the Mexican bank of the Rio Grande at that point from erosion or avulsion have been

gravely called in question by competent engineering authorities, as violative of the stipulations of the convention of November 12th 1884, and where the importance of the issues involved demanded immediate determination.

Hence, the present time seems to be peculiarly appropriate for taking up and completing, as far as we can do in our capacity as the respective plenipotentiaries of the two countries, the conventional negotiation contemplated by the Joint Resolution to which I have referred, and which, although still lacking the authority which its adoption by the Congress would have conferred, has yet received, as you remark in your note of the 4th of December last, the sanction of the popular branch of the national legislature.

I have therefore examined the text of such a convention as is proposed in your aforesaid notes of Dec. 4th, 1888, and Jan. 25th of the present year, and am happy to find my views in accord therewith. The additional article proposed by you in the latter of the notes referred to, especially, meets my approval as indispensable to render the suggested arrangement effective, and had it not been presented by you, I would have proposed a provision to the same end as a necessary condition to the negotiation.

You do not indicate the number of your proposed additional article; but, upon examination I am inclined to think that it falls naturally into place after the VIth article of the original draft submitted with your note of December 4th, 1888, and I therefore propose to number it Article VII, and to change the numeration of the seventh and eighth articles of your draft to Article VIII and Article IX respectively.

I enclose, herewith, a copy of the proposed convention, as above explained, in a carefully prepared English text equivalent to the Spanish text of your proposal. If, in this form, it meets your views, I shall be pleased to arrange forthwith for its signature with you at a day and hour to be agreed upon,—and as but little time remains within which I can act on the subject, I suggest your immediate consideration of the draft so submitted and your cooperation in the labor of preparing the convention for signature, in order that we may, if possible, sign the same on Friday next, the 1st proximo, at two o'clock in the afternoon.

Accept, etc.

T. F. BAYARD.

Encl. Draft of a treaty as above, in English. ^a

^a [Draft omitted. For text of this convention as ratified by the two countries, see *supra*, p. 72.—Agent's note.]

Señor Romero to Mr. Bayard.

LEGACIÓN MEXICANA,
WASHINGTON, *Febrero 27 de 1889.*

Señor SECRETARIO:

He tenido la honra de recibir la nota de Usted, de hoy, en la que me manifiesta que aprueba el proyecto de Convención para organizar una Comisión Internacional de límites, que dirima las dificultades que se susciten en la parte de la frontera, entre México y los Estados-Unidos, en que sirve de línea divisoria el lecho de los rios Bravo del Norte y Colorado, que remití á Usted con mi nota de 4 de Diciembre de 1888, y el artículo adicional que le sometí con nota de 25 de Enero siguiente.

De conformidad con la indicación de Usted, se ha escrito en esta Legación el texto español en los dos ejemplares de la Convención y los remito adjuntos á esta nota, á fin de que se pueda escribir el texto inglés, en el Departamento de Estado, y una vez hecho esto, podamos firmar la Convención el viérnes de esta semana, 1º de Marzo próximo, á las dos de la tarde, segun se sirve Usted indicarme, con cuyo objeto concurriré á ese Departamento el dia y hora expresados.

He examinado atentamente el texto inglés de la Convención propuesta que se sirvió Usted incluir á su nota de hoy, y que es el equivalente del texto español, enviado con mis notas citadas; y me permito hacer presente, aunque con la debida desconfianza por no serme la lengua inglesa tan familiar como lo es á Usted, que á mi juicio, la palabra castellana “corrosión” usada en el artículo IV del proyecto, se traduciría mejor por *corrosion* que por *erosion* que aparece en el texto inglés, porque segun entiendo la palabra *erosion* se refiere más bien á la descomposición del cuerpo humano, mientras que *corrosion* expresa los cambios habidos en el terreno por aluvion, y porque ésta última palabra está más conforme con la que usa el texto español del tratado.

Es para mi motivo de satisfacción que durante el tiempo en que Usted ha tenido á su cargo el Departamento de Estado de los Estados-Unidos, se hayan fijado bases sólidas no sólo para demarcar de una manera conveniente la línea divisoria entre los dos países, sino para terminar amistosamente y por medio de procedimientos hasta cierto punto judiciales y que dan por lo mismo garantías de justificación y acierto,—las dificultades que puedan suscitarse con motivo de los cambios inevitables en el

lecho de los rios que sirven de límite en una parte considerable de nuestra línea fronteriza, que ocasiona la fuerza de la corriente.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Anexos: Los textos en español de la Convención referida.

Hon. THOMAS FRANCIS BAYARD,
etc., etc., etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *February 27, 1889.*

Mr. SECRETARY:

I have had the honor to receive your note, of to-day, in which you state to me that you approve the draft of a Convention to organize an International Boundary Commission, in order to adjust the difficulties arising in that part of the border-line between Mexico and the United States wherein the bed of the rivers Bravo del Norte (Rio Grande) and Colorado serve as the dividing line, which draft I sent to you with my note of the 4th of December, 1888, and also the additional article which I submitted with my note of the 25th of January following.

In conformity with your intimation, there has been prepared in this Legation the Spanish text of the two copies of the Convention, and I send them to you in company with this note, in order that the English text may be added in the Department of State, and, this being done, we can sign the Convention on Friday of this week, the first of March proximo, at two o'clock in the afternoon, as you are pleased to suggest to me, for which purpose I shall go to the Department on the day and at the hour designated.

I have attentively examined the English text of the Convention proposed, which you were pleased to enclose with your note of to-day, and which is the equivalent of the Spanish text sent with my above-mentioned notes; and you will permit me to observe, although with the lack of confidence due to the English language not being as familiar to me as it is to you, that, in my opinion, the Spanish word "corrosion" employed in Article IV of the draft, would be better translated by *corrosion* than by *erosion*, which appears in the English text, for, as I understand the word *erosion*, it refers rather to the wasting away of the human body, while *corrosion* expresses the changes occurring in the soil by alluvial action; and, besides, this latter word is in closer conformity with that employed in the Spanish text of the treaty.

It is a cause of satisfaction to me that during the time the Department of State of the United States has been under your charge solid bases have been fixed, not only for the proper marking of the dividing line between the two countries, but also for putting an end, in a friendly manner and by means of proceedings which are to some extent judicial and which therefore afford guarantees of justification and accuracy, to the difficulties arising by reason of the inevitable changes in the channel of the rivers which serve as the boundary for a considerable part of our frontier line, caused by the force of the current.

Be pleased to accept, Mr. Secretary, &c.

M. ROMERO.

^a The duplicate text, in Spanish, of the Convention mentioned.

Mr. Bayard to Mr. Bragg.

No. 231.

DEPARTMENT OF STATE,

WASHINGTON, *February 28, 1889.*

EDWARD S. BRAGG, Esq^r.

etc. etc. etc.

SIR,

I enclose herewith, for your information and preservation upon the files of your Legation, translations of two notes addressed to me by M. Romero, the Mexican Minister at this Capital, under date of 4th December, 1888, and 25th January, 1889: and of my note to M. Romero dated the 27th instant, in relation to the negotiation of a convention for instituting an International Commission for the settlement of questions affecting the river boundary between the United States and Mexico, according to the rules laid down in the convention between the two countries of November 12th, 1884.

The text of a convention has been agreed upon in substantial conformity with the proposition of the Mexican Government, which in its turn, as you will observe I have stated in my note to Señor Romero, follows the proposition originally made by me in January, 1888.

You will be further advised of the fact of signature.

I am, etc.

T. F. BAYARD.

Enclosures: 1. Sr. Romero to Mr. Bayard Dec. 4, 1888.^b

2. M " " " Jan. 25, 1889.^b

3. M. Bayard " Sr Romero Feb. 27, " .^b

[^a Inclosures omitted. For text of this Convention as ratified by the two countries see *supra*, p. 72.—Agent's note.]

[^b For these inclosures, see *supra*, pp. 744, 751, 752.—Agent's note.]

Mr. Bayard to Señor Romero.

DEPARTMENT OF STATE,

WASHINGTON, *March 1, 1889.*

Señor DON MATIAS ROMERO,

etc. etc. etc.

SIR:

I have the pleasure to acknowledge the receipt of your note of the 27th ultimo in which you accept the equivalent English text of the draft of a Convention to organize an International Boundary Commission which I sent to you with my note of that date, and state your readiness to sign the completed text with me this afternoon at two o'clock.

With reference to your suggestion touching the use of the word *corrosion* instead of *erosion* where it occurs in Article IV of the draft I may remark that the phrase "avulsion or erosion" has passed into judicial use in this country and has also the sanction of eminent authority, in its particular relation to the changes wrought in alluvial soil by the action of a river current.

It affords me much gratification to reciprocate your expression of satisfaction that our mutual endeavors toward adjusting by competent means all questions between the two countries touching the demarcation of the frontier and toward removing all causes for difference in that regard, have reached a successful close.

Accept, etc.,

T. F. BAYARD.

Mr. Bayard to Señor Romero.

DEPARTMENT OF STATE,

WASHINGTON, *March 1, 1889.*

Señor DON MATIAS ROMERO,

etc. etc. etc.

SIR:

Referring to the previous correspondence which I have had the honor to exchange with you in relation to the questions arising at El Paso, Texas, by reason of the construction on the opposite Mexican shore, at Ciudad Juarez, of certain wing-dams for the ostensible purpose of protecting the shore from erosion, I have now the honor to transmit for your information a copy of the report of Major Oswald H. Ernst, United States Engineers, giving the results of the investigation he was detailed to make and submitting the protocols of his conferences with Señor Garfias, the Engineer who, in pursuance of the amicable understanding

which was reached at the time, was detailed on behalf of the Mexican Government to make a like investigation and report.

I trust that at a convenient season this Government may be furnished with the corresponding report of the Mexican Engineer.

In view of the apparent subjection of the questions presented at Ciudad Juarez to the stipulations of the river-boundary Convention of November 12, 1884, and of the immediate prospect of a convenient forum for their adjustment being afforded as the result of the negotiation for an International Boundary Commission, which we are about to bring to so satisfactory a close to-day, there seems to be no present occasion for discussing the incident of the obstructions in question; for I assume that those works will continue to be suspended until a harmonious decision can be reached in the premises,—unless indeed all occasion for possible complaint should be sooner removed by so modifying the plan of operations as to cause its obnoxious features, which Major Ernst reports so clearly and forcibly to entirely disappear.

Accept, etc.,

T. F. BAYARD.

Encl. Major Ernst to Mr. Bayard, Galveston, Texas, Dec. 12, 1889—accomp.

[Inclosure.]

Major Ernst to Mr. Bayard.

UNITED STATES ENGINEER OFFICE,
GALVESTON, TEXAS, *December 12, 1888.*

The Honorable, The SECRETARY OF STATE.

(Through the Honorable Secretary of War and Chief of Engineers, U. S. Army) *Washington, D. C.*

SIR:—I have the honor to report that in compliance with the instructions contained in your letter of the 19th ult, I have visited El Paso Texas, where I arrived on the 24th ult and remained until the 30th ult, and have examined the works under construction by the Mexican Government for the protection of the right bank of the Rio Grande River at that place. The following maps, photographs, and documents are herewith transmitted.

1. Comparative map, showing approximately the change which occurred in the location of the river between the years 1855 and 1885. Scale 1:180,000

2. Map which accompanied the original project of the Mexican Engineer, showing the banks of the river in 1885, the proposed location of the works, some details of their construction, and the water ways at a medium stage. Scale $\frac{1}{8000}$

3. Sketch showing approximately the water-ways as they appeared Nov. 26th, 1888, and the location of the works as actually constructed. Scale $\frac{1}{8000}$

4. Six photographic views of the works taken Nov. 27th and 28th 1888.

5. Translation of the original project for the protection of the bank submitted by the Mexican Engineer to his government in 1886, under which the work has been done.

6. Minutes of the proceedings at the conferences between the engineers of Mexico and the U. S. in the Spanish and English languages.

Leaving a rocky gorge just above El Paso the Rio Grande issues into an alluvial plain some 5 or 6 miles in width, through which it flows in a bed of its own formation. The banks and bottom are of light earth and sand easily moved by the currents. The river is a silt-bearing stream, carrying at times an excessively large proportion of solid matter. At the lowest stage the water ceases to flow and except in detached pools the bed becomes entirely dry. During the Spring freshets the water sometimes rises to a height of from 9 to 10 feet above the lowest, and flows with a rapid current heavily charged with sediment. At such times it possesses great building as well as destructive power. Between these two extremes there are at different seasons all degrees of volume and velocity. The size and character of the stream are ever varying, and its requirements as to form and dimensions of bed vary equally. The river's work of altering its bed to suit the necessities of the moment is never-ending. The bed as it happens to exist now is the final resultant of all efforts of the stream, some of which have neutralized and some have aided each other, but the bed is not fixed. It is shifting from one position to another, altering its course, eroding one bank and building up the opposite one, forming islands and bars, and then destroying them. The result of the natural changes is most noticeable in a bend where the erosion of the concave shore is sometimes continuous for many years, as appears to have been the case at El Paso. The location of the river at this place as it was found in 1855, is shown in black upon Plate I, which is an enlargement of a portion of Sheet 29, U. S. Mexican Boundary Survey furnished me with

your letter of instructions. Upon the same plate is shown in red ink the location of the stream as it was found by Mr. Garfias, the Mexican Engineer, in 1855. It will be observed that between those dates there has been a very considerable encroachment upon Mexican territory, with a corresponding advance of the American shore. The maximum distance between the shore of 1855 and that of 1885 is about five-eighths of a mile and the total area added to American territory is about 490 acres. I have been unable to learn whether this movement has been continuous throughout the thirty years or whether it has been intermittent. Of late years there has been a tendency to erode the American side. Beginning a short distance below Dike 1, for half a mile or more the American shore bears evidence of recent erosion. The vertical face of the bank indicating recent caving is partially shown upon photographic view No. II. The evidence as to when the erosion began or how far it has extended was contradictory. These points must be determined, if at all, in a court of law.

In 1886, Mr Ignacio Garfias, civil Engineer, submitted to the Mexican government a project for the protection of the right bank. A translation of this document is herewith transmitted. A tracing of the map which accompanied it constitutes the inclosed Plate II. Mr. Garfias took the ground that the left bank as well as the right bank belonged to Mexico, and that any works which might be required to push the river back to the position which it occupied in 1855 were legal and proper, provided they did not interfere with navigation. (There is no navigation of any kind upon this portion of the river, except a small skiff used as a ferry, and there never can be any). He furthermore held that in this case it would not be necessary to encroach upon the left bank, and that while the use of dikes projecting into the stream to the injury of the left bank was justifiable, some persons might object to it, and he could and would locate his works so that the current would not be thrown upon the left bank. He proposed a series of deflecting dikes, eight in number, which are shown upon Plate II. The total length of shore which they are designed to protect is about $2\frac{1}{2}$ miles. They are numbered consecutively according to location and not according to the order of their construction. He rejected the system of continuous revetment of the bank, on account of its supposed greater cost, and he announced that at present in the United States and in Holland no works for the rectification of a river's channel, the defense of its banks, or the

improvement of a bar are constructed upon any other system than the one adopted by him. It may be remarked in passing, that he was misinformed as to the United States.

The work was begun in August 1886, under the direction of Mr. Felipe Zavalza, civil Engineer, with the construction of dike 4, which was completed in January 1887. It was followed by Dike 3, which was finished in July 1887, also under the direction of Mr. Zavalza. Mr. Garfias then took personal charge of the works, relieving Mr. Zavalza, and has remained in charge up to this time. Between August 1887 and January 1888 he built No. 1; between January 1888 and March 1888 No. 2; and subsequently No. 5, which was completed early in November 1888. He then began No. 6, but soon suspended operations there to await the action of higher authorities upon the complaint made against his works by the citizens of El Paso, Texas. At the time of my visit he was engaged in preparing material for the construction of No. 8

The general method of construction is the same for all the works. Brush is first made into closely bound bundles, called fascines, about 6 inches in diameter and of varying length. A course of fascines is laid at right angles to the general direction of the dike and about three feet apart. Over these a second course is laid parallel with the general direction of the dike and also about three feet apart. Above these again a third course is laid parallel with the first, and also about three feet apart, and so on until six courses have been placed, the fascines in each course being laid in a direction perpendicular to that of those immediately below. Each course is secured to those below by withes and pickets which pass through three courses. The fascines intended for the longitudinal courses are made long enough to extend from one end of the work to the other. Those intended for the outer courses are made of a length necessary to extend through from one side of the dike to the other. In this stage the structure constitutes a sort of crib-work or grillage, having very large interstices. Into the voids short brush is packed vertically as closely as possible by hand. These six courses after being filled in with brush constitute what Mr. Garfias calls a mattress. It is made in place, or when the water is too deep for that, it is made upon inclined ways and then floated into position and sunk. In either case it is loaded with stone sufficient to hold it in place when submerged. One mattress being completed and placed, another is constructed in a

similar manner and superposed on the first. The width of the top mattress is 20 feet, that being the thickness of the dike on top. The width of the others increases with their depth below the top as shown in the cross section Plate II. The top of the dike when completed is on a level with the highest floods. It is finished with a top dressing of loose gravel as shown in photographic view No. 6.

When first placed the dike is permeable and allows the water to pass freely through it. It is a silt-catching device, similar in its action to the hurdles used for building up new banks upon the Mississippi River. Checking the velocity of the water and smoothing out its boils and whirls, it causes the water to drop its load of solid matter and to make deposits above and below and within the work itself. It is most active at the higher stages of the river, when the water is most fully charged with sediment. It is a thoroughly efficient device for building up a new bank in advance of the old one, but like all of its kind, must be kept in repair.

Some changes in the river bank subsequent to the original project involved some slight alterations in the location of the works. As actually constructed they are shown upon Plate III, upon which also are sketched the water-ways approximately as they appeared at the time of my first inspection, Nov. 26th, the stage of the river being a few inches above low water. The works not yet built are shown upon this plate in broken lines. In plan the dikes all have one main branch, connected with the shore at its upstream end and running obliquely into the river until its downstream end is at a distance from the shore which differs for the different works. Those first constructed, Nos. 4, 3, and 1. have a second or return branch which connects the downstream end of the first branch with the shore below. This return branch being found unnecessary has been omitted in the later works.

The following lengths and distances have been measured from the map furnished by the Mexican Engineer, Plate III. The main branch of No. 1 is about 325 feet long, and its greatest projection from the Mexican bank is about 90 feet, the total distance between the two banks here being about 325 feet; a view of this dike is given in photographic view No. 1. No. 2 is about 450 feet long, and its greatest projection is about 110 feet, the total distance between the banks here being about 300 feet; this dike appears in photographic view No. 1, and also in view No. 2. The main branch of No. 3 is about 250 feet long, and its greatest projection is about

60 feet, the total distance between the banks here being about 180 feet; this dike appears in photographic view No. 3. The main branch of No. 4 is about 325 feet long, and its greatest projection about 250 feet, the total distance between the banks here being about 430 feet; this dike appears in photographic view No. 4. No. 5 is about 500 feet long, and its greatest projection is about 170 feet, the total distance between the banks here being about 600 feet. The downstream end of this dike connects with a pier of the railway bridge as shown in photographic views Nos. 5 and 6.

Just above the railway bridge there begins a decided increase in the distance between the banks. Near the wagon bridge, where dike No. 6 was begun, the distance is about 700 feet. The river is here divided into two arms,—see Plate III—which are separated by a high bar or low island. Incipient vegetation is growing upon this bar, or island, and it is submergable only at the higher stages of the river. It was not entirely submerged during the year 1888 at all, the highest freshets of this year having reached a level less than six feet above the lowest and between three and four feet below the highest. A few days before my visit the left arm was entirely dry, and all the water which was passing flowed through the right arm, in a stream which, I am informed, was not over thirty feet wide and but a few inches deep. This fact demonstrates that the right arm is the deeper arm, and that the middle of it is therefore the boundary between the two countries.

Dike No. 6, as projected upon Plate III, and as its construction was begun, is about 350 feet long, and extends entirely across the right arm at the lower stages. At the higher stages of course the right arm becomes wider and the obstruction is not total. As already stated, work upon this dike had been suspended. The first courses of fascines had been placed for the entire length of the dike, and at their outer end they rested upon the dry ground of the bar or island. They had been ballasted with stone for only a short distance from their upstream end, say about one quarter of their entire length. I was unable to obtain a photographic view of this work, for the reason that between the date of my first inspection, Nov. 26, and that of my second, Nov. 27th, when I was accompanied by a photographer, there was a rise of over four feet in the river, which submerged a part of the work, and disturbed much of it that had not been ballasted.

Dike No. 7, as projected upon Plate III also extends entirely across the right arm. It had not been begun, for the same reasons that had caused the suspension of work upon No. 6.

The main branch of Dike No. 8, as planned, is about 325 feet long, and its greatest projection from the Mexican bank is about 160 feet, the total distance between the banks here being about 780 feet. No work had been actually placed in the river here, but the fabrication of fascines had been begun, and it was the intention of Mr. Garfias to proceed with the construction of the dike.

It thus appears that the five dikes constructed project from 60 to 250 feet from the Mexican bank, and occupy at the points where they are located from about one quarter to more than one half the entire width of the stream between high water banks. They are of a class which are designed to utilize the building power of the river itself, and their effect will be to push out the Mexican shore between them as well as behind them. The river will not endure such material reduction of its bed. The area of cross section will be restored by excavations elsewhere. This will be done partially at the expense of the opposite bank and partially at the expense of the bottom. There will be a deepening of the channel at the outer extremities of the dikes which will tend to undermine them. But the material of the bottom being heavier than that of the bank, the restoration of the area of cross section will, in all straight or gently curving portions of the river, be made principally at the expense of the opposite shore. In the sharp bends, where much the strongest current is found upon the concave side, the restoration of the area will be more at the expense of the bottom. The excavation caused by this sudden contraction of the width will at first load the stream with an amount of solid matter which it can carry only while it retains the increased velocity due to the contracted section, and a portion of which it will drop at the first wide place below, where in finding its normal area of cross section its velocity is slackened. This may cause a temporary bar to make its appearance below the dike and on the opposite side of the river. Mr. Garfias claimed that such bars had actually formed below his works, and he held that they proved that his works were not injuring the opposite bank. The fact may be admitted, but not the conclusion. Subsequent freshets, when not overloaded with sediment, approaching such bars will sweep them away, and may then attack the bank behind them. He claimed also that no erosion of the opposite bank had thus far been caused by his works, and that such erosion as is now going on began before the works were constructed. If it be admitted that the erosion began before the works were constructed—and I am

unable to say that it did not—it does not by any means follow that it has not been increased or hastened by them. Or, if it be admitted that even this has not as yet occurred, it does not follow that it will not occur in the future. Dikes 1 and 2 have been in existence through only one high water season, that of 1888, in which the river was less high than usual. Their bank building effect has thus far been moderate, and their maximum effect upon the opposite shore has therefore not been reached. They are permeable now in their upper courses, but will hereafter become solid. The deposits above and below them are now comparatively low, but they will increase in height with every flood. The proposition of the Mexican Engineer is, in substance, that the width of a river flowing in a straight reach between alluvial banks can be contracted one fourth by works constructed upon one side of it only. Hydraulic engineers in general will not assent to this proposition. In the case of Dikes 1, 2, and 3, I should expect that if the works be maintained in full efficiency as they have been constructed they would push out the Mexican shore to approximately the same distance that they themselves extend into the stream, and that as the result of this there would be a slight deepening of the channel, but that the American shore would recede a distance only a little less than that by which the other shore advanced. If allowed to stand the wear and tear to which they will be subjected, without repair, they will cause a less advance and a less recession of the opposite shore. In the case of Dikes 4 and 5, I should expect a similar advance of the Mexican shore, but owing to the sharp bend here, not much, if any, recession of the opposite one, except what might be caused by the works above. The probable effect of Dike 6, if completed, is more serious. In connection with No. 5 above and No. 7 below it would probably close the right arm of the river and throw the entire volume into the left arm, thus making the boundary difficult of identification, and transferring all the destructive power of the river to American territory. It should be remarked that when these works were planned the condition of the river was different to what it is now. The main stream then crossed the bed in a single channel over ground which is now occupied by the high bar or island, as may be seen by superposing Plates II and III and looking through the tracing. No. 8 would cause an advance of the Mexican shore, and possibly some recession of the opposite one, but owing to the fact that the opposite shore here diverges with a sharp bend, the latter result may

not occur. These are given as the probable effects of the works after two or three high water seasons. Their ultimate effects are somewhat uncertain. A new force is injected among a multitude of natural forces which are already in a state of unstable equilibrium. A well defined erosion of the left bank having been inaugurated may possibly continue after the original inciting cause has ceased to exert a direct influence.

The ground upon the American side which will probably be destroyed by these works is of recent formation, subject to overflow, and but sparsely occupied, where occupied at all. Its money value is not great.

I am required to give my opinion as to whether these works are in conformity with those permitted by the IIId Article of the Convention of Nov. 12th 1884. That Article reads as follows;

No artificial change in the navigable course of the river by building jetties, piers, or obstructions which may tend to deflect the current or produce deposits of alluvium, or by dredging to deepen another than the original channel under the Treaty when there is more than one channel, or by cutting water-ways to shorten the navigable distance shall be *permitted to affect or alter the dividing line* as determined by the aforesaid commissions in 1852, or as determined by Article I hereof and under the reservation therein contained; but the protection of the banks on either side from erosion by revetments of stone or other material not unduly projecting into the current of the river shall not be deemed an artificial change."

The Article does not appear to prescribe what character of works shall or shall not be constructed in the river, but it defines what the effect of different classes of works shall be upon the location of the boundary. If the course of the river be changed by jetties, piers, &. or by revetments which project unduly into the river, the boundary between the two countries does not move with the channel, but remains where it was before. If the course of the river be changed by revetments which do not unduly project, then the boundary moves with the channel.

There are various methods in common use among engineers for the protection of river banks. One of them is the continuous revetment, which consists in covering the face of the bank with a material, such as brush and stone, which can not be washed away by running water. It conforms to the natural outline of the shore, projecting uniformly and slightly, and is strictly defensive in its character. It is regarded by American engineers as the surest,

and therefore in the end the cheapest, means of defence, and is in general use upon the largest American rivers. Another method is in the use of the ordinary spur, in which at intervals along the shore to be protected short dikes, called spurs, are run out at right angles to the shore or slightly inclined up or down stream. They are designed to hold the bank where they find it, but not to advance it. They also are defensive, though less strictly so than the former, but they are uncertain in their action. Another method is in the use of deflecting dikes, designed to turn the current entirely away from the shore, and, in silt-bearing streams, to push the latter forward. They are aggressive in character. The works under consideration belong to the latter class. They have been adopted upon the ground of supposed economy. They do in my judgment project unduly into the current of the river.

I was unable to carry out the spirit of the third paragraph of your instructions which contemplated an exchange of views between myself and a Mexican Engineer not heretofore associated with the works, for the reason that the Engineer appointed by the Mexican government to confer with me was Mr. Garfias himself, who projected the works and is now in charge of their construction. This gentleman was thoroughly committed in his official reports and public utterances to the ideas that his works would not injure the left bank, and that if they did it was still his right to build them. I did not consider it necessary or desirable to enter into any discussions with him, further than were required to elucidate his views and to procure the information I was seeking. He was very courteous and obliging, going with me through mud and rain to examine his works, showing me his drawings, freely making explanations, answering all questions, and allowing me to take into my service his draughts-man for making copies of his maps.

Viewed from a Mexican stand point his work is a credit to him, showing much ingenuity and fertility of resource. There was associated with him as his subordinate, Mr. Felipe Zavalza, who had been appointed by the Mexican government to aid in the conference. This gentleman is not at present connected with the works, but he formerly was, having built the first two dikes.

Mr. Beckford Mackey, U. S. Consul at Juarez, was present at all the conferences between the Mexican engineers and myself, and with his knowledge of the Spanish language was of much assistance in the mutual understanding of what was said. He made

the translation of Mr. Garfias' project, which is hereto appended, and he was of material service in bringing me into communication with the citizens of El Paso who might be able to furnish information. He cheerfully rendered me all the assistance within his power.

I was unable to procure from American sources any recent maps which I considered as valuable for the present purpose as the Mexican map of 1885. I held interviews with Mr. F. Ashton, the present city engineer of El Paso, and with Mr. G. N. Marshall, his predecessor, and with other citizens; but they did not know of any maps except those which had been made to exhibit the boundaries of land owners. These maps indicated the location of the river in a general way, but they showed only the American side, and that, as it appeared to me, only approximately, as would be natural with a land map in the case of a boundary which is changeable.

The general result of my investigation is that the Mexican government has constructed, and is constructing, works which project unduly into the current of the river, to the injury of American citizens owning the left bank, an injury not as yet great, but which may become serious. The injury to be expected from those already constructed may be largely diminished by leaving them without repairs and allowing them to suffer the deterioration to which all such works are subject. Even thus they will protect a large part, if not the whole, of the right bank. Should portions of the bank remain unsheltered by them, the money which would otherwise be expended in repairs might be directly applied to such unsheltered parts. The works planned but not yet constructed—viz, Dikes 6 and 7—promise to do more harm than the others, and in the present condition of affairs, which is so different from that when they were planned, they should be abandoned, and recourse had to a direct revetment for this portion of the bank.

It may be pertinent to add that the changes which have occurred in the Rio Grande at El Paso are perfectly natural to an alluvial stream, and that similar changes have doubtless occurred throughout its course below. It is highly probable that at the date of the Convention of 1884 there were very few points in common between the location of the river at that time and its location at the time of the survey of 1855. To hold that the Convention of 1884 was a new agreement, not retroactive, and that the boundary of that time was where it was in 1855, without reference to changes in the river which might have occurred prior to 1884, is to make the Con-

vention meaningless. The boundary of 1855 was, in 1884, upon dry land, except at isolated points where it crossed the river. To make it the subject of stipulations which could refer only to a river would not mean anything.

My accounts of disbursements and mileage will be forwarded with a separate communication hereafter.

Very respectfully, your obedient servant,

O. H. ERNST.
Major of Engineers.

[Sub-inclosure.]

[Translation.]

Project of works of defence in the Rio Bravo in front of the town of Paso Del Norte. Dated March 25, 1886.

GALVESTON, TEXAS, Dec. 12, 1888.

Respectfully forwarded to the Hon. Secretary of State, with letter of this date.

O. H. ERNST.
Major of Engineers, U. S. Army.

STATE OF THE RIVER AND FORM OF ITS BED IN 1848.

At that point in the west, at which the river commences to be the line of boundary, its bed is well defined, flowing as it does through a narrow valley and encased for a considerable distance between the mountains which form the great range known as the Sierra Madre Oriental.

When the river reaches the point at which is placed the dam for the irrigation of the right bank, the valley widens, the flat country begins and the bed becomes variable. The course of the river for the whole of the space described and especially between the dam mentioned and the town of Paso del Norte, is from North-west to South-East, but precisely in front of the town it changes to the East forming a large curve the concavity of which extends toward the south.

The maps surveyed ? by the joint commission which marked the line of boundary, and which, according to Art. V. of the treaty, "form part of the same treaty and have the same force as though they were inserted therein," exhibit the condition of the river-bed at that epoch, the form of its curve, and above all its location, which as will be seen further on, is most important in order to establish the right of Mexico to recover the land which

has been lost by the aggressions of current, employing such means as should be adequate for the purpose.

The accompanying tracing has been taken from the original on file at the Department of Public Works.

DAMAGE SUFFERED BY THE MEXICAN SIDE.

The natural form of rivers presents always the same phenomena. The conditions of the regions which rivers traverse make these phenomena more or less characteristic.

The modifications of a river's bed depend upon the class of land through which it flows, and upon the velocity of the current. Near the source of a river the stream is rocky narrow, abrupt, irregular, and generally precipitate as a torrent; its bed is fixed and invariable, because the obstructions which the current encounters are of a permanent character formed by the inequalities of the soil.

Lower down the bed of the stream becomes more tortuous and truly serpentine, as it crosses broad valleys and forms great curves, which seem to recognize no law, as the slightest obstruction or at times no known cause, will make the river leave its channel and force a new bed entirely different in its location and development. In such places bars and shores are formed, the apparition of which phenomena follows laws perfectly understood.

When a river leaves the higher regions from which it takes its source, the increase in volume caused by freshets may deepen the channel and leave its banks unchanged. The matter held in suspension by the waters and that torn away from its bed or banks will not be deposited except in those places where the force of the current has so diminished as to be unable to bear them away.

At the beginning of its course not only does the river bear along the material dislodged from its bed and sides, but by the irresistible operation of the water upon the fragments of rock and the rotation and shocks to which these fragments are subjected, they become round and smooth and what are known as "cantos rodados" (bowlders).

Passing from the mountains to the level regions accessions to the volume of the water enlarge the channel, not in depth but in width, because as the force of the upper and middle part of the current is greater than at the bottom, and the banks of the river in the valleys and plains more spacious and yielding, they give way more easily than the soil which forms the bottom of the river's bed.

In support of this theory, which is perfectly corroborated by experience, Prof. Molesworth makes use of the following expressions: "Representing V as the velocity of the surface, that of the middle will be equal to $a(n+0.5) - Vv$ and at the bottom equal to $a(V+1) - 2Vv$; from which results that 4 for example being the velocity of the surface, that of the middle will be 2.5 and the velocity of the bottom of the stream 1." So now if the dams must yield to every increase in the volume of water let us see which of them will be most likely to suffer.

Every body in movement unless meeting resistance follows a straight line. The body in movement which does not follow the straight line must have met some resistance which causes it to pursue a different direction. This rule holds with rivers which tend always to follow a straight line, but when encountering resistance change their course and wear away portions of their banks. In the curves of rivers is produced this effect, which science calls "avulsion."

On the side opposite, that is to say, in the convex part of the curve, from the same tendency of the river to follow a straight line, it will follow the tangent of the curve for a distance more or less great, dependent upon the breadth of the river and its velocity; and consequently, the space embraced between the tangent and the curve from the point of tangency until where this change of course occurs is occupied by still water, where is deposited the matter held in suspension and where is formed what is technically called "alluvion."

These two phenomena just described are directly contrary, and as the convex side of the curve gains what is lost by the concave, and this evolution is constant and natural, unless the hand of man should interpose a limit the river would continue its advance, adding land each day to the convex side, and each day carrying away territory on the other. This is exactly what has occurred in the case now under consideration.

The curve of the river in front of Paso del Norte presents its convex side towards the Mexican bank, and from a comparison of the surveys of the commission of 1852 with one made by me, it results, that the river has changed its course towards the south, one thousand seven hundred and thirty-five meters. Without the necessity for the inspection of maps, the aspect of the soil on both sides of the river proves the invasion of the right bank; for this side is covered with vegetable earth, which waters never

deposit, and the left bank displays only sand, and that character of soil produced only by alluvion. I think therefore that I have sufficiently demonstrated the loss of territory suffered by the Mexican side.

LEGAL PART.

Let it now be seen whether the Mexican Government possesses the right to construct works which may prevent the continuance of this damage and reestablish the bed of the river in the state it held when the united Commissioners surveyed the line of boundary.

The question is perfectly clear and simple. No necessity exists for recurring to an examination of doctrines in regard to alluvion and avulsion, for the existence of a formal compact nullifies all else.

The treaty of peace, friendship, limits, and definitive settlement between the Mexican Republic and the United States of America, signed February 2, 1848 at Guadalupe Hidalgo and ratified at Queretaro May 26th of the same year says in Art. V part 3rd "In order to designate the boundaryline with due precision upon authoritative maps and to establish upon the ground landmarks which shall show the limits of both republics as described in the present Article, the two Governments shall each appoint a commissioner and a surveyor, who before the expiration of one year from the date of the exchange of ratifications of this treaty, shall meet at the port of San Diego, and proceed to run and mark the said boundary in its whole course to the mouth of the Rio Bravo del Norte.

"They shall keep journals and make out plans of their operations: and the result agreed upon by them shall be deemed a part of this treaty and shall have the same force as if it were inserted therein. The two governments shall Amicably agree regarding what may be necessary for these persons and also as to their respective escorts should such be necessary." And in part of 4th of the same, Art. 5. "The boundaryline established by this Article shall be religiously respected by each of the two republics and no change shall ever be made therein except by the express and free consent of both nations lawfully given by the general Government of each, in conformity with its own constitution." And in Art. 7. of said treaty it is agreed, that: "The river Gila and the part of the Rio Bravo del Norte, lying below the southern boundary of New Mexico. being, agreeably

to the fifth Article divided in the middle between the two Republics, the navigation of the Gila and the Bravo below said boundary shall be free and common to the vessels and citizens of both countries, and neither shall construct any work that may impede or interrupt in whole or in part the exercise of this right; not even for the purpose of favoring new methods of navigation."

From these conventions it is seen that the course of the river as shown on maps of that epoch shall be the line of boundary and that "no change shall ever be made therein;" so that the boundary line is not the course of the river with the changes which it has had or may have, but the line which the river occupied as shown by the surveys of the joint commission on limits, and consequently the land which is today on the left bank of the river, but to the south of the line marked by the maps of the commission, belongs to Mexico, and are subject to the jurisdiction of the Mexican Government.

With respect to works on the river, the Mexican Government may establish such as may be necessary to restore the line of boundary to its legal position, with the sole limitation that they "may not interrupt or impede in whole or in part the exercise of the right of navigation."

CLASS OF WORKS OF DEFENCE PROPOSED.

Established the necessity and right to construct works to defend the right bank of the river, it remains to select the class of works which in consideration of the circumstances will be most expedient.

In view of the works constructed by me under similar circumstances at the port of Matamoros, I have formed the opinion that in this case it will only be necessary to modify my plans in one detail, on account of the force of the current which is greater here than at Matamoros.

All works of defence for rivers banks, with the exception of these spurs, are based on the system of facings, and in consequence must be of considerable extent and therefore greater in cost than spurs which occupy only a sixth part of the surface which they are expected to protect, it being known that a spur of this kind protects an extent of territory five times longer than its face.

The only inconvenience sometimes presented by these works, is that it is not always possible to so select their location and direction, that the opposite bank of the river may not be injured.

In such a case it is necessary to abandon the system.

In the case under consideration no such difficulty exists for such a location may be chosen and such directions and dimensions given, that the deflection of the current will not reach the opposite bank.

If then the only objection to the construction of these works in the present instance disappears and it is beyond doubt that spurs of this description defend the same extent of territory at a smaller cost and with less labor, there is no reason for hesitating to adopt this system.

Let us see now the class of material which must be used in their construction.


The piles system gives good results when the force of the current does not pass a certain limit, as at Matamoros, where the works constructed by me resulted satisfactorily; but if the current is sufficiently strong to cause the piles to oscillate, this aided by the floating tendency and shocks received from matter carried down the stream, loosen their fastenings, and the connection between the stakes once destroyed the works go to ruin.

I do not know the velocity of the current at Paso del Norte, but it is sufficient to know that the pile bridges of the railways here, have not been able to resist the current during high water and that Paso del Norte is much higher up than Matamoros, to presume that works constructed on the pile system will not give good results and should not be adopted while there is another system exempt from these inconveniences. The mattress system has been known from time immemorial, and was used and is still used in several of the countries of Europe as a simple facing of the banks, usually in one layer only.

The genius of Capt Eads has worked a genuine revolution in this respect, and at present in the United States and in Holland no works for the rectification of a river's channel, the defense of its banks, or the improvement of a bar are constructed on any other system.

The new system consists in forming a dam of proper dimensions by means of superposed layers of willow or other branches, each mattress so constructed being sufficiently ballasted to secure immersion. The mattresses consist of bundles of branches, and their length varies according to the importance of the work, but in general is never less than 100 feet.

The diameter of the bundles from which the mattresses are formed can not be fixed, but is usually from 4 to 6 inches. The



bundles are so united as to form the mattresses, by means of flexible reeds or vines or with tarred ship-cord.

The mattress is laid on an inclined plane of beams placed at such distance as permits the tying or weaving of the bundles, and at the bank of the river in order that the mattress may be easily floated. The mattress is then drawn to the place where it is to be situated and once in place is ballasted and sunk.

The mattresses are placed one upon the other, and diminish in breadth to give the necessary slope.

The fascine is built to the highest point which the waters of the river may attain during the freshets.

This is the system which Capt Eads employed and which he called "mattresses of fascines."

In Holland these Mattresses are differently constructed, and two kinds of work of this description are used, one for simple revetments, and one for the formation of dams; the first are called "kizzen-bedden," the second "zink-stukken;" to the first is given greater longitudinal strength, to the second greater transverse resistance.

A frame of crib-work is made which commences with a transverse series of branches tied or twisted in bundles and placed at a distance from each other of one metre or nine tenths of a metre. Over this is laid a longitudinal series at a distance which is never less than nine tenths of a metre for the "zink-stucken". In order that the longitudinal strength may be greater and may better resist the force of the current, the bundles of branches are made of the whole length of the work if this should not be greater than 150 or 200 metres, and never less than these dimensions.

The diameter of the bundles is from four to six inches.

Where the bundles cross each other they are fastened together by means of flexible reeds or vines, except at the points of the perimeter in which places use is made of unraveled ship-cable by which the mattresses are fastened to stakes, and the upper layers united with the lower after these are filled.

The openings in the crib-work are filled with twigs tied together and placed vertically, the height of the two bundles which form the layer.

Another layer is then superposed so that the openings coincide and these are filled in the same manner, the layers being united with ship-rope as described.

Three layers form the mattress which will be from forty hundredths of a metre to a metre in thickness. A greater diameter

is not desirable for the reason that the mattress then assumes too great rigidity and does not adapt itself to the form of the river's bed.

These mattresses are submerged by ballasting of stones of the proper weight and dimensions. In order that the ballast may be kept in position, small stakes are placed in all the openings of intersection, and at each fourth stake is placed one which is called the "stake of anchorage"—(estaca de anclagé) which penetrates the river's bed and prevents the movement of the system.

These stakes must be strong but thin so that the floating tendency will be as slight as possible. The ballast should be in the proportion of eighteen hundredths of a cubic metre of stone or gravel to a square metre for the centre, and twenty-six hundredths of a ton of stone to the square metre for the perimeter.

This is the system which I believe advisable to adopt for the works now under consideration.

SURVEY.

Having adopted the system and class of works to be constructed let us pass to the location and dimensions of said works, which require more exact data.

This data I began to collect immediately upon my arrival at Paso del Norte, and with more or less success. I encountered no obstacle in the topography.

Provided with an excellent theodolite, I quickly made a detailed plan of the river and its relative location.

The soundings also offered but little difficulty, for as the river was found almost dry, the transverse sections which I believed would be necessary became rather profiles taken on *terra firma*.

The examination of the river's bed and subsoil gave a like result.

Unfortunately I can not say the same in regard to the other data, relative to the regimen, the lowest point of the water during the dry season, the freshets and middle stage of the waters, the velocity of the current, its direction, the points at which the matter carried along or held in suspension strikes the banks, the discharge, and other particulars which result from the above.

My stay in Paso del Norte has been during the months of October and November last, when the rains had ceased more than a month. During this season the rainfall had been slight and freshets produced had disappeared; and the season of the breaking up of the snow and ice not having arrived, I found the river in what may be termed at low-water state; that is to say almost entirely dry.

This will be shown by the transverse sections which appear on the plans herewith annexed.

This was the first occasion of my visiting this locality on a scientific mission and consequently I lacked the data proper for determining the elements necessary to base my calculations. I inquired on both the American and Mexican sides whether any observations had been made of the low and high stages of the waters, its volume, the force of the current etc.; and I found that no such data had been obtained.

On the Mexican side, which is the side injured and consequently where a very natural interest should exist in collecting the information referred to, no person has been found of sufficient knowledge, united with the zeal and foresight necessary to make the observations required, which demand time, constancy and expense not inconsiderable from its duration and continuance.

As on the American side far from having experienced any damage the land has been added to day by day by alluvion; no attention has been given to changes which could not affect them injuriously and no such observations had been made, which under adverse circumstances would have been carefully registered as occurred at the Military post near Matamoros.

In view of these circumstances and reserving the completion of my observation for a favorable epoch, I have resolved, time and circumstances permitting, to proceed by deductions founded on the theories of the most reputable authors, and the experience acquired by many years of study of the phenomena presented by rivers and the various works intended to regulate their regimen, protect their sides and prevent the formation of banks and bars.

To deduce the regimen of this river in the locality referred to, I availed myself of the following theories and facts.

As is known, the regimen of a river is the relation which exists between its transverse section, the longitudinal slope, the nature of its bed, and the volume of water.

It is said that this regimen is fixed when these relations are constant, or change insensibly and at long intervals of time. This regimen is on the contrary variable when the relations expressed are subject to changes which recognize various causes. It is sufficient to glance at the accompanying map to be convinced of the irregularity and inequality of the transverse sections; and if this map is compared with those of anterior epochs it will be seen how much the course of the river has changed, invading a great extent of land on the south, and

widening in all that part which remains in front of the town of Paso del Norte. Now if the transverse sections are so variable and if the course of the river changes so easily augmenting the development of the line and consequently modifying the longitudinal slope, the regimen of the river can not be fixed, at this place.

The volume of water also is very variable.

Not only is this manifested by facts in a passage of time sufficiently great; but this may also be deduced from the relation which exists between the volume, the velocity of the current, and the section, for these last being variable, the volume will also vary.

The velocity may be deduced approximately from the nature of the matter deposited in the river's bed by the following table:

A current of $\frac{1}{4}$ foot per second carries fine clay.

A current of $\frac{1}{2}$ foot per second carries fine sand.

A current of $\frac{3}{4}$ foot per second carries coarse sand.

A current of 1 foot per second carries fine gravel.

A current of 2 feet per second carries coarse gravel.

A current of 3 feet per second carries a stone as large as an egg.

A current of 5 feet per second carries a stone as large as 2 feet square.

In the bed of this river are found all these materials, which shows that the lighter matter has been deposited in the dry season when the velocity of the current is reduced to the minimum; but as large stones are also found in the bed of the river it may be deduced that during the freshets the velocity of the current is sufficiently great to carry this matter, and consequently is at least that of the maximum in the above table. This datum is what has made me reject the pile system and adopt the system of fascines, which offers greater resistance and at less cost, at least in the locality now treated of.

LOCATION.

Having selected the system of works and the materials to be used let us proceed to fix upon the location and dimensions to be given to each of the dams in order that the desired effect may be obtained.

Assuming, according to the established theory, that when water encounters a convex curve it follows the tangent of said surface; this natural effect should be availed of in such a manner that it may be produced in the whole extent which it is sought to defend.

It is known that a spur protects an extent of land five times *greater than* the length of its face. Now, in order that the oppo-

site bank may not be injured, in spite of the justice of the title which I have shown to exist in Mexico, I have fixed upon the most pronounced convex curves and given to each spur such length and direction that they will not carry the current to the left bank, but will protect our own side which has been worn away and must continue to be worn away unless defended.

Between the irrigating dam and the first work I did not think it necessary to do any thing because there the course of the river is almost straight, possessing only a slight curvature which presents its concave side, rather to the left bank.

The first work as marked on the plan will have 100 metres face of deviation and 50 of counter-force; with a breadth of ten metres and a height which according to the depth of the bed but attains the altitude of the rivers bank which supports it.

The second work will be seventy five metres in length, and have fifty metres of counter force; it will also have ten metres of breadth and a corresponding height.

The third will have respective dimensions of eighty, twenty and ten metres.

The fourth—seventy five—seventy five—ten metres.

The fifth—ninety five—eighty five and ten.

The sixth—ninety five—fifty five—and ten.

The seventh—two hundred metres—seventy—and ten.

The eighth—one hundred and fifty—one hundred and thirty—and ten.

The ninth must be a simple dike, without counter-force supported in its lowest part by the bank or natural island marked on the map and commencing above at half the distance defended by the last spur.

This work might be left isolated because the current will not strike it except from the third part formed.

The construction of this dike appears to me of the greatest importance although I must remark that it will remain in the river beyond the middle of the bed at present; and although the part treated of is no determined channel, and the bed of the river where it now flows is not the line of boundary, I believe it my duty to submit to the high consideration of the Department whether I may adopt the location indicated.

The dimensions of this work must be six hundred metres by ten. Its greatest height will be three metres and its medium two.

The order in which the works should be constructed is that which I have mentioned.

But above all the last should not be constructed until the next has produced, its effects forming a bank on the right side and causing to disappear the movable sand, on which nothing can be built without danger of the work being undermined and losing its stability.

ESTIMATE.

From the anterior data it results that there are required two thousand longitudinal metres of mattresses, with a breadth of ten metres and a height of one metre eighty centimeters; or a total of sixty mattresses of one hundred metres by ten and of sixty centimeters.

For greater clearness I will calculate the cost of one mattress of these dimensions.

The branches for the fascines are purchased in Paso del Norte, in cart loads which average a ton and a half, and cost two dollars delivered at the works. The stone costs one dollar a ton; the gravel seventy five cents per cubic metre; the wood costs two dollars per thousand square feet of one inch in thickness.

The wages of the laborers will be from seventy five cents to one dollar per diem.

The average weight of branches necessary for a mattress is two hundred and forty tons or a hundred and sixty cart loads, at \$2.00.

160 cart loads at \$2.00	\$320. 00
14490 C. metres of gravel at .75	108. 67
44.5 tons of stone, at 1.00	44. 50
164 feet of wood for 109 frames at 3 by 3 by 2, \$3.00	3. 28
82 feet of wood for stakes	64. 00
5 pounds nails, at 10 cts. . . . .	. 50
8100 yds. tarred hemp-cord	4. 00
50 spikes at 12½ cts	6. 25
50 yds. thick cord	6. 25
1250 yds. medium	12. 50
Labor on frames	7. 50
Labor on 222 fascines or bundles	55. 50
Labor on 11 fascines, at \$2.50	27. 50
20 beams, 1,312 sq. feet	26. 24
Labor on inclined plane	20. 00
Placing, binding, and formation of a mattress at 50 cts. sq. metre	500. 00
Floating into position of each mattress	40. 00
Ballasting mattresses, 25 cts. ton	38. 25
Total	1222. 58

For 60 mattresses.....	\$73354. 80
Contingent expenses.....	7335. 48
Total.....	80690. 28

The time required for the construction of the work will depend upon the sum assigned each week for the purchase of materials and payment of labor, and may be reduced by beginning at the same time construction on all except the last, which should not be erected until a year later than the others.

March 25, 1886

Y. GARFIAS.

CONSULATE OF THE UNITED STATES,
PASO DEL NORTE, MEXICO, *Dec. 4th, 1888.*

I hereby certify that the accompanying translation was made by me and after being submitted to Mr. Ygnacio Garfias declared by him to be true and correct.

Given under my hand and seal of office, the day and year above written.

[SEAL.]

BECKFORD MACKEY,
U. S. Consul.

Señor Romero to Mr. Bayard.

LEGACIÓN MEXICANA,
WASHINGTON, *1 de Marzo de 1889.*

Señor SECRETARIO:

Tengo la honra de acusar recibo de la nota de Usted de hoy, en la que refiriendose á nuestra correspondencia anterior, respecto de la cuestion suscitada en El Paso, Texas, con motivo de la construccion de un espolon en el lado mexicano del Rio Bravo del Norte, para proteger aquella ribera contra las crecientes del rio, me remite Usted copia del informe que el Mayor Oswald H. Ernst, del Cuerpo de Yngenieros de los Estados Unidos remitió al Departamento de Estado, respecto de la averiguacion que se le encargó, y copia de los protocolos de las conferencias que tuvo con los Señores Favalza y Garfias, Ingenieros nombrados por el Gobierno de Mexico, en virtud de un acuerdo con el de los Estados Unidos para hacer por su parte, una averiguacion semejante. Expresa Usted el deseo de que se facilite oportunamente al Gobierno de los Estados Unidos copia del informe de los Ingenieros mexicanos y termina Usted por manifestar que estando para firmarse hoy una Convencion que tiene por objeto organizar una Comision Internacional de Limites, que dirima las cuestiones que se susciten en la frontera, con motivo de los cambios en el lecho de los rios Bravo del Norte y Colorado, en la parte en que sirven de

línea divisoria entre los dos países, podrá terminarse este negocio por esa Comisión, expresando el deseo de que entre tanto queden suspendidas aquellas obras.

Tengo la honra de manifestar á Usted en respuesta que ya comunico al Gobierno de Mexico para su conocimiento y resolución, la nota de Usted que contesto.

Sírvase Usted aceptar Señor Secretario las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. THOMAS F. BAYARD,
etc., etc., etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *March 1, 1889.*

Mr. SECRETARY:

I have the honor to acknowledge the receipt of your note of today in which referring to our former correspondence respecting the question arisen in El Paso, Texas, on account of the construction of a jetty on the Mexican side of the Rio Bravo del Norte to protect that bank against the inroads of the river, you send me a copy of the report which Major Oswald H. Ernst, of the Corps of United States Engineers, has sent to the Department of State respecting the investigation with which he was charged, and a copy of the protocols of the conferences which he held with Señores Zavala and Garfias the Engineers named by the Government of Mexico by virtue of an agreement with the United States to make on its part a similar investigation. You express the desire that there be early transmitted to the Government of the United States a copy of the report of the Mexican Engineers and you end by explaining that, as a Convention is to be signed today which has for its object the establishment of an International Boundary Commission to adjust the questions arising along the frontier on account of the changes in the bed of the rivers Bravo del Norte and Colorado where they serve as a boundary between the two countries, this business can be finished by that Commission and you express the desire that meanwhile those works be suspended.

I have the honor to advise you in reply that I have already communicated to the Government of Mexico for its information and determination your note to which this is a reply.

Accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. THOMAS F. BAYARD.

Mr. Adee to Señor Romero.

DEPARTMENT OF STATE,

WASHINGTON, *March 7, 1889.*

Señor DON MATIAS ROMERO,

etc. etc. etc.

My dear Mr. ROMERO.

It gives me pleasure to herewith transmit the accompaniments to the report of Major Ernst, U. S. Engineer Corps, which were necessarily omitted from Mr. Bayard's note of the 1st instant, as explained therein, relative to the wing dams on the Rio Grande opposite El Paso, Texas.

Very truly yours,

ALVEY A. ADEE.

Accomp.—Map—and six photographic views.^a

Señor Romero to Mr. Adee.

LEGACION MEXICANA,

WASHINGTON, D. C., *Marzo 7 de 1889.*

Mi estimado Mr. ADEE:

Tengo la honra de acusar recibo de la carta de Ud., de hoy, con la que me remite siete fotografías, la primera de las cuales es una copia del mapa No. 1 anexo al informe del Mayor Ernst del cuerpo de ingenieros de los Estados Unidos, que demuestra la colocacion del rio Bravo en los años de 1855 y 1885, y las seis restantes vistas fotograficas de las obras que se estan construyendo para proteger la ribera derecha de aquel rio, en Paso' del Norte, Mexico, cuyas vistas debieron venir anexas á la nota de Mr. Bayard, de 1 del corriente y no se me remitieron entonces porque aun no se habian concluido.

Mando estas vistas desde luego á mi Gobierno para la mejor inteligencia del informe del Mayor Ernst.

De Usted, muy sinceramente,

M. ROMERO.

Hon. ALVEY A. ADEE,

etc., etc., etc.

^a [Inclosures omitted. Certified copies held at the disposal of the Commission.—Agent's note.]

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *March 7, 1889.*

My dear Mr. ADEE:

I have the honor to acknowledge receipt of your letter of to-day with which you sent me seven photographs the first of which is a copy of Map No. 1 annexed to the report of Major Ernst of the Corps of Engineers of the United States showing the position of the Rio Bravo in the years 1855 and 1885 and the other six photographic views of the works which are being constructed to protect the right bank of that river at Paso del Norte, Mexico, which views should have come annexed to the note of Mr. Bayard of the 1st instant but were not then sent to me because they had not yet been completed.

I am sending these views at once to my Government for its better understanding of the report of Major Ernst.

Very sincerely,

M. ROMERO.

Hon. ALVEY A. ADEE:

Señor Romero to Mr. Blaine.

LEGACION MEXICANA.
WASHINGTON, *22 de Mayo de 1889.*

Señor SECRETARIO:

Tengo la honra de informar á Ud. que he recibido un cablegrama del Señor Mariscal, Secretario de Relaciones Exteriores de los Estados-Unidos Mexicanos, fechado hoy en el que me comunica que el Senado Mexicano aprobó ayer la Convencion firmada en esta ciudad el 1º de Marzo de este año, entre México y los Estados Unidos, para organizar una comision internacional de limites, encargada de aplicar los principios establecidos en la convencion firmada en esta ciudad el 12 de Noviembre de 1884, respecto de los cambios ocasionados en el cauce del Rio Bravo, del Norte, en la parte que sirve de linea divisoria entre los dos paises.

Estaré dispuesto para hacer el canje de ratificaciones de esta convencion, tan luego como Ud. se sirva comunicarme que el Senado de los Estados Unidos la ha aprobado, y que ha sido ratificado por el Presidente.

Sirvase Ud. aceptar, Señor Secretario las seguridades de mi mas distinguida consideracion.

M. ROMERO.

Hon. JAMES G. BLAINE,
etc., etc., etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *May 22, 1889.*

Mr. SECRETARY:

I have the honor to inform you that I have received a cablegram from Señor Mariscal, Secretary of Foreign Relations of the United Mexican States, dated today in which he apprises me that the Mexican Senate yesterday approved the convention signed in this city March 1st of this year between Mexico and the United States organizing an International Boundary Commission, charged with applying the principles established in the Convention signed in this city November 12, 1884, respecting the changes that have taken place in the channel of the Rio Bravo del Norte in that part which serves as a boundary line between the two countries.

I shall be ready to effect the exchange of ratifications of this Convention as soon as you are pleased to inform me that the Senate of the United States has approved and that it has been ratified by the President.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. JAMES G. BLAINE,
etc. etc. etc.

Mr. Blaine to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *May 25, 1889.*

Señor DON MATIAS ROMERO,
etc. etc. etc.

SIR:

I have the honor to acknowledge the receipt of your note of the 22d instant, saying that you are prepared to effect the necessary exchange of ratifications of the Convention signed at Washington, March 1, 1889, to facilitate the carrying out of the principles of the Convention of November 12, 1884, touching the boundary line between the United States and Mexico where it follows the bed of the Rio Grande and the Rio Colorado.

In reply, I desire to state that the Convention in question is still pending before the Senate, that body having adjourned without taking action thereon.

Accept, etc.,

JAMES G. BLAINE.

Mr. Blaine to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *June 26, 1889.*

Señor DON MATIAS ROMERO,
etc. etc. etc.

SIR:

I have the honor to enclose for your information having regard to previous correspondence upon the subject, three copies of Senate Executive Document No. 144 50th Congress, 2d. Session, containing a message from the President relative to the construction of certain wingdams in the Rio Grande at Paso del Norte (Ciudad Juarez) opposite the city of El Paso, Texas.

Accept, etc.

JAMES G. BLAINE.

Encl. The Reports mentioned.

Señor Romero to Mr. Blaine.

LEGACION MEXICANA,
WASHINGTON, *Junio 28 de 1889.*

Señor SECRETARIO:

Esta mañana tuve la honra de recibir la nota que se sirvió Usted dirigir al Señor Don Matías Romero, con fecha 26 del corriente, acompañándole tres ejemplares del documento del Ejecutivo No. 144, que se remitió al Senado durante el segundo periodo de sesiones del 50º Congreso de los Estados Unidos, relativo á la construcción de ciertos espolones sobre el Rio Grande, en Paso del Norte, (Ciudad Juarez) frente al Paso, Texas.

Agradezco á Usted bastante el envio de ese documento que remito ya á mi Gobierno para su conocimiento y aprovecho la ocasión para ofrecerle las protestas de mi más atenta y distinguida consideración.

C. ROMERO.

Al Hon. JAMES G. BLAINE,
etc., etc., etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *June 28, 1889.*

Mr. SECRETARY:

This morning I had the honor to receive a note which you were pleased to address to Señor Don Matias Romero, dated the 26th

instant, and enclosing three copies of Executive Document No. 144 which was sent to the Senate during the Second Session of the Fiftieth Congress of the United States, relative to the construction of certain jetties in the Rio Grande at Paso del Norte (Ciudad Juarez) opposite El Paso, Texas.

I thank you for sending this document which I shall transmit at once to my Government for its information and I improve the occasion to offer you the assurances of my most distinguished consideration.

C. ROMERO.

Hon. JAMES G. BLAINE,
etc. etc. etc.

Señor Romero to Mr. Blaine.

LEGACION MEXICANA,
WASHINGTON, 28 de Enero de 1890.

Señor SECRETARIO:

Habiéndome recomendado ese Departamento con fecha 1° de Marzo último, que comunicara al Gobierno de los Estados Unidos el informe del Señor Don Ignacio Garfias, Ingeniero Mexicano que se asoció al Mayor Ernst, del Cuerpo de Ingenieros del Ejercito de los Estados Unidos, para examinar las obras construidas en el Rio Bravo del Norte, á fin de proteger la ribera de la Ciudad de Paso del Norte tengo la honra de trasmitir á Ud. copia de las observaciones que hace el Señor Garfias al informe del Mayor Ernst fechadas el 2 de Julio de 1889, que me acaba de remitir el mismo Señor Garfias, al separarse de Paso del Norte, para ir á Tehuantepec con otra comision que le ha encargado el Gobierno de Mexico.

Acompaño igualmente las tres fotografias mencionadas en el informe del Señor Garfias, llamando la atencion de Ud. hacia la explicacion que cada una tiene en su reverso; y respecto del plano que se menciona tambien en el informe expresado, manifiesto á Ud. que aun no lo recibo, y que se lo remitiré luego que llegue á mi poder.

Sírvase Ud. aceptar, Señor Secretario, las seguridades de mi mas distinguida consideracion.

M. ROMERO

Anexos. Informe del Sr. Garfias y tres fotografias.

Hon. JAMES G. BLAINE,
&c., &c., &c.

[Inclosure.]

Direccion de las Obras Hidráulicas del Rio Bravo en Paso del Norte.—La comunicación de esa Secretaria, Num. 3478 de la Seccion 3ª, fecha 6 de Abril, llegó á mi poder precisamente en los momentos en que se esperaban las crecientes para contestar y poder combatir las opiniones que el Mayor Ernst expone en su informe al Ministro de Estado de la República vecina, quise esperar á que pasaran las crecientes, á que produjeran sus efectos y despues presentar los hechos que son los argumentos mas elocuentes.—Actualmente el rio ha bajado casi hasta su estado de estiaje absoluto dejando en seco los bancos nuevamente formados por el efecto de las obras. El croquis adjunto manifiesta el estado actual del cauce y en ese plano y en las vistas fotográficas que tambien acompaño voy á basar las observaciones que me sujere la lectura del informe del Mayor Ernst.—Seguiré el órden adoptado por este Ingeniero para ir tocando todos los puntos que comprende el referido informe.—Refiriéndome al plano I que acompaño, debo hacer notar que la línea que marca el estado del rio en 1885, solamente indica la corriente de agua existente en los dias en que levanté el plano respectivo y no el cauce propiamente tal, que esta bien determinado en mi plano; y que no se hicieron coincidir las líneas de la vía ferrea del Central y de la tranvía, con las de las calles que ocupan, acaso por que el punto comun de los dos planos no fué exactamente determinado al hacer las reducciones. Comienza Mr. Ernst describiendo el cauce del rio y dice que al salir el Rio Grande de la garganta de roca, justamente arriba de El Paso, entra en una llanura de aluvion, como cinco ó seis millas de ancho, á traves de la cual corre en un cauce formado por el mismo rio. Las márgenes y lecho son de tierra suave y arena fácilmente removibles por el agua” * * * “Durante el estiaje el agua deja de correr y con excepcion de algunas posas aisladas, el lecho queda enteramente seco * * *.”—Las dimensiones y forma de la corriente cambian constantemente y la forma y dimensiones del cauce requeridas por la corriente cambian tambien. El trabajo del rio de alterar el cauce para llenar las necesidades del momento no acaba nunca. El cauce como ahora existe es el resultado final de todas las fuerzas de la corriente algunas de las cuales se han neutralizado y otras se han ayudado entre sí, pero el cauce no es fijo. Cambia de una posicion á otra alterando su curso, usurpando de un lado y embancando del otro formando islas y bancos que despues destruye. El

resultado de los cambios naturales es mas notable en una curva en la que el lado cóncavo sufre una continua corrosion por muchos años, como se ve que ha sucedido en El Paso. La locacion del rio en este lugar como se encontraba en 1855 aparece en tinta negra en la lámina I que está amplificada de una parte de la hoja 29 de la topografía de Línea Limítrofe Mexicana con los Estados Unidos que me remitió Ud. con su nota de instrucciones. En la misma lámina aparece en tinta roja la locacion de la corriente, como la encontró el Sr. Garfias, el Ingeniero Mexicano en 1885. Se observara que entre esas dos fechas ha habido una pérdida considerable del territorio mexicano en el correspondiente avance de la orilla americana. La distancia mayor entre la orilla de 1855 y la de 1885 es como de cinco octavos de milla y la area total agregada al territorio americano es como de 490 acres."—De mucha importancia son estas aseveraciones del Mayor Ernst.—Conviene en que el terreno en el que está formado el cauce es deleznable; en que por accion natural de las aguas el cauce cambia y en que de 1855 á 1885 los cambios han sido con perjuicio de México en la extension expresada. Segun esto, suponiendo sin conceder que llegara á ocurrir la avulsion en el lado americano, no habiendo ésta ocurrido hasta ahora en las tres épocas de crecientes que han pasado desde que se construyeron las primeras obras de defensa mexicanas, sería muy difícil, si no imposible probar que dicha avulsion había sido producida por el efecto de las obras. Mi opinion es que no ha de ocurrir avulsion en el lado americano por las razones siguientes. Teniendo únicamente en cuenta los caprichosos cambios que la corriente pudiera producir, es más fácil que esos cambios se produzcan en el lado mexicano cuyo terreno, de formacion natural, está formado por una capa de tierra vegetal sobre otra de arena movediza, que se deslava con la mayor facilidad, dejando en hueco la tierra vegetal, la que, llegado este caso, se derrumba inevitablemente. Toda la parte ganada del lado americano, frente de las obras, está formada por una mezcla de arena y tierra, que con las materias que acarrea el rio, y que forman una mezcla solida relativamente á la capa de arena que forma el subsuelo del lado mexicano.—Técnicamente la demostracion es mas sencilla y clara.—Suponiendo que la corriente es paralela á las orillas; si se interpone un espolon con un angulo determinado, la fuerza de desviacion del espolon puede descomponerse en dos, una perpendicular y la otra paralela á la cara de desviacion, y ésta ultima fuerza será proporcional al coseno del

angulo que el espolon forma con la orilla. Ademas, la cantidad de agua que choca contra el espolon es proporcional á la perpendicular trazada del punto extremo del espolon á la orilla, ó al seno del mismo angulo, resulta que la fuerza con que el agua correrá paralelamente al espolon, será igual al producto del seno por el coseno del ángulo que la obra forma con la orilla y como éste producto es nulo cuando el espolon es paralelo á la orilla opuesta, resulta que no puede haber perjuicio técnicamente porque con excepcion de la obra Núm. 2 todas las demas son paralelas á la orilla izquierda.—Hace constar Mr. Ernst la distancia ó proyeccion del punto extremo de cada obra á la orilla derecha en su estado actual, pero examínese el plano y se verá que esa distancia es nula si se toma á la orilla opuesta, que es como debe medirse y considerarse pues puede resultar hasta mayor que la anchura normal de todo el rio por el sistema de contar adoptado por Mr. Ernst. No es la distancia ó proyeccion la que en este caso debe tenerse en cuenta, tomando por base una orilla cuya destruccion está en curso constante, y en la que por consiguiente ese dato cambia de un dia á otro, sino el ángulo formado por las obras con la orilla opuesta, la que no ha sufrido cambio ninguno desde el principio de las obras.—Sigue diciendo Mr. Ernst que yo opino que tanto la orilla derecha como la izquierda pertenecen á Mexico y que cualquier obra que tienda á restablecer la linea á la posicion que ocupaba en 1855, sería una obra legal con tal que no interrumpiera el derecho de navegacion y entre parentesis agrega “No hay navegacion de ningun género en esta porcion del rio, excepto un pequeño esquife que se usa para pasar de un lado á otro, y jamas puede haber una navegacion.”—Asi es en efecto porque el tratado de Guadalupe Hidalgo dice terminante—que “jamás se admitirá cambio ninguno en la línea limítrofe tal como la tracen las comisiones unidas y que se prohiba hacer obras que estorben ó interrumpen el derecho de la navegacion.”—Siendo este un convenio expreso en el que salen sobrando todas las doctrinas relativas, habiéndose cambiado la linea, como es de notoriedad pública y como lo expresa el mismo Ingeniero Ernst y no habiendo navegacion cuyo derecho pudiera ser interrumpido, es claro que el Gobierno mexicano está en su derecho para hacer cualquier clase de obras, mientras la línea no pase de la locación legal que le corresponde. Sin embargo de este derecho indisputable, ya he demostrado que las obras proyectadas y ejecutadas por mí, ni tuvieron el objeto de atacar la margen izquierda, ni la

han atacado hasta la fecha, por mas que muchos interesados y parciales en el asunto teman ó profeticen lo contrario.—Pasa Mr. Ernst á mencionar las dimensiones de las obras construidas, asignando á cada una de ellas lo que distan sus puntos extremos de la márgen derecha, contada esta distancia hasta la parte mas ancha de la corrocion, sobre cuya injustificada manera de estimar la proyeccion ya antes expresé mis razones, y al llegar á la obra Núm. 6 que fué la que motivo la reclamacion aconsejada por el Abogado Coldwell, dice que existen dos canales en ese lugar, pero que por ser el canal mas profundo el del lado mexicano, el centro de ese canal es la línea limítrofe.—Sobre esto padece un error el Ingeniero Ernst. El tratado dice que la línea limítrofe es el centro del rio, y solamente fija el centro del canal mas profundo para el caso en que haya mas de un canal. Pero es claro que se trata de una division en dos ó mas canales permanentes, producidos por la existencia de una ó mas islas permanentes y no ha corrientes de agua constantemente variables y que hasta llegan á desaparecer por completo, en cuyo caso, no habiendo corriente de agua, sino un cauce seco, no puede ser otro el limite jurisdiccional sino el centro del cauce. Ademias, la convencion de 1884, el articulo IV, dice que “si se hubiese construido un puente internacional, sobre cualquiera de los rios mencionados, se marcará el punto de dicho puente que quede exactamente sobre el centro del canal principal segun se ha determinado en este tratado, con un monumento á propósito, el cual denotará la línea divisoria para todos los objetos de dicho puente no obstante los cambios en el canal que puedan ocurrir despues, etc.” Y como en este caso no hay mas que un canal que lo es el cauce del rio, es claro que el centro del cauce es la línea limítrofe jurisdiccional.—Conviene Mr. Ernst en que los bancos de arena en este rio aparecen y desaparecen constantemente, y por consiguiente, haciendo cambiar los canales en su forma y profundidad, sería necesario, para determinar la línea jurisdiccional, estar haciendo sondeos de los canales cada vez que ocurriera duda á se respecto.—Como esto sería absurdo, creo que, en el caso de no haber una isla permanente, la línea jurisdiccional es el centro del cauce, aunque la línea limítrofe sea otra.—Vuelve Mr. Ernst, reasumiendo, á sentar que los cinco diques que el vió concluidos proyectan de sesenta á doscientos cincuenta pies contados de la orilla mexicana y ocupan, en los puntos de su locacion de una cuarta parte á mas de la mitad del ancho total de la corriente entre los bordes de las

altas aguas. No es equitativo tomar las cosas por su lado malo. Esas mismas distancias, tomadas á una de las posiciones anteriores de la orilla derecha, no darían proyeccion, ó la darian negativa. En efecto, la obra Num. 4 que, segun Mr. Ernst es la que tiene mayor proyeccion (250 pies), ocupa hoy la posicion que dos años antes de su construccion tenia la márgen del rio, la que va marcada en el plano con puntos rojos. La proyeccion la mide Mr. Ernst hasta el fondo de la rinconada, formada por una corrosion que si no se detiene, habria llegado hasta la Iglesia, en cuyo caso se habría pretendido que la obra tenia millares de pies de proyeccion. A la obra Num. 5 Mr. Ernst le fija 170 pies de proyeccion y si se miden las distancias del punto de arranque de la obra y de su punto extremo saliente, a la otra margen, resultan 117 metros para la primera y 123 para la segunda, es decir, que el punto extremo dista de la márgen opuesta seis metros mas que el de arranque, haciendo negativa la proyeccion. Es llegado el caso de poner perfectamente en claro la causa alegada para la reclamacion. El mensaje redactado por el Abogado Coldwell al Gobernador del Estado de Texas y el mismo Abogado, en la discusion que sobre el asunto tuvo el Cabildo la noche del 9 de Noviembre, dice que la obra es una sólida presa; que ésta atraviesa completamente el Rio Grande y que una parte de esa presa está en las calles de la ciudad de El Paso. Ninguna de estas aservaciones es cierta. La obra Núm. 6 que es de la que se trata, comenzó á construirse paralelamente á la márgen opuesta y no hay presa posible con semejante posicion no es solida, porque por el contrario se ha elegido un sistema que permita el paso libre de las aguas á traves de la obra no ocupa las calles de la ciudad de El Paso porque el rio tiene en ese lugar doscientos metros frente al principio ó arranque de la obra y 185 frente al extremo arrancado de la misma, de manera que proyecta solamente quince metros sobre el eje faltándole 77 metros 5 centímetros para llegar á la linea jurisdiccional y mas de mil para llegar á la limítrofe. Para quitar toda duda á este respecto, mandé tomar las vistas fotográficas que acompaño, un dia que el altura del agua dejo la obra Num. 6 en descubierto. De esas vistas resulta que la obra Núm. 6 ocupaba dos claros de los 28 que tiene el puente de la tranvía y en consecuencia probada la inexactitud de las aservaciones consignadas en el telegrama del Abogado Coldwell. Para acabar de destruir por completo los racionios basados en el hecho de que la obra Núm. 6 atraviere el Rio Grande y tiene uno de sus extremos

en las calles de El Paso, los cambios caprichosos de las corrientes han venido á determinar un estado de cosas enteramente contrario á lo que tenian en la fecha de la reclamacion. Actualmente el canal que atravesaba la obra Núm. 6 se ha secado enteramente no quedando curso de agua sino del lado izquierdo del cauce. Si la teoria de Mr. Coldwell sobre la linea limítrofe, fuera de aceptarse, esta cuestion tendria que darse por terminada supuesto que en tal caso el terreno mexicano y hasta las calles de Paso del Norte podian reputarse llegando hasta el centro del nuevo canal mas profundo que deja la obra Núm. 6 á mas de mil metros de distancia á su derecha, en cuyo caso todas las objeciones de las autoridades de El Paso quedan destruidas. Hace en seguida Mr. Ernst un argumento que, hecho de la manera que el lo presenta, es el único que aparece con visos de solidos.

Dice que mis obras estrechan el cauce, y que para la seccion se iguale es necesario que el agua trabaje bien á expensas del lecho ó de las márgenes, y que por ser mas sólido el fondo, es claro que ha de ampliarse la seccion en funcion de la márgen izquierda. Esta teoria es exactísima; pero adolece del defecto principal; supone que la seccion que queda entre las obras y la márgen izquierda es insuficiente, y para demostrar lo contrario no se necesitan ni guarismos ni cálculos de ninguna especie. Basta fijarse en el plano, del que aparece, que las obras han sido construidas en la parte del rio donde la anchura del cauce es mucho mayor que en la parte comprendida entre la presa y la obra número 1, y que la seccion que resulta entre las obras y la márgen izquierda es mayor que la que tiene el rio en la parte alta referida; ahora bien: si el agua cabe en la seccion de la parte anterior á las obras, sin desbordar ni producir corrosion, no hay razon ninguna para que se produzca este efecto frente á las obras con una seccion mayor.

En esta parte de su informe Mr. Ernst deduce que, segun mis teorias, puede reducirse la anchura de una corriente, una cuarta parte por medio de obras construidas en un solo lado de la corriente, lo que no admitirá ningun ingeniero hidráulico. Seguramente Mr. Ernst no se fijó en la diferencia de anchura de la seccion del rio ántes de las obras y en los lugares de la locacion de éstas, porque si tal cosa hubiera sucedido, no habria deducido la absurda teoria que me atribuye.

Pasa Mr. Ernst á hacer la calificacion del resultado que en su concepto han de producir las obras y dice que si se conservan las

numeros 1, 2 y 3 en el estado en que se construyeron, harán avanzar la orilla derecha á la misma distancia que alcanza corriente adentro, que como resultado de este efecto se profundizará un poco el canal, pero que la orilla izquierda perderá una distancia solamente poco menor que la que la otra orilla avance. Que si se les deja sufrir las pérdidas á que estan sujetas, sin repararlas, producirán menor avance y menor corrosion en el lado opuesto. Que en el caso de los diques números 4 y 5 debe esperarse una avance igual de la orilla mexicana, pero que debido á la vuelta rápida que allí se encuentra, no mucha ó ninguna pérdida sufrirá el lado americano excepto la que causen las obras anteriores. Que el efecto probable del dique número 6 es mas serio si llega á terminarse porque en coneccion con el numero 5 arriba y el 7 abajo, cerrará probablemente el brazo derecho y arrojará todo el volúmen del rio en el brazo izquierdo, haciendo dificil de identificar la linea divisoria y cambiando toda la fuerza destructora del rio al territorio americano.

Respecto del número 8 dice que debe causar un avance de la orilla derecha, siendo posible una pérdida para la izquierda, pero que, debido á la divergencia que sufre la orilla americana, por la vuelta rapida, este último resultado puede no ocurrir.

Como se ve todos estos pronósticos estan basados unicamente en hipótesis que hasta ahora no han llegado á convertirse en hechos.

Con las crecientes que acaban de pasar en Abril y Mayo ultimo, son ya tres las que han ocurrido despues de la terminacion de las obras números 3 y 4, dos despues de las 1 y 2 y una despues de la 5, sin que se haya producido la pérdida ó corrosion que predice Mr. Ernst para la márgen izquierda.

Si tal corrosion se hubiera producido, ya lo habrian justificado los interesados en la suspension de las obras, presentando los planos del ingeniero del Estado, del de ciudad y de las compañías de compra y venta de terrenos (Real Estate) cuyos planos existen, lo que me consta por haberlos visto, y fueron negados á Mr. Ernst porque no servían sino para probar la exactitud de mis aserveciones.

Respecto del efecto de la obra número 6, que Mr. Ernst califica de mas serio, yo creo todo lo contrario y en oficio he dicho ya que en mi concepto esa obra no debiendo producir efecto ninguno, es inútil y he propuesto su supresion,—el cambio del canal hacia la márgen izquierda sin la intervencion de la obra número 6, ha venido

á justificar la exactitud de mi prediccion y la falta de fundamento en el juicio emitido á este respecto por el Ingeniero Ernst.

Dice este Señor que los efectos que apunta son los que probablemente producirán las obras despues de dos ó tres crecientes, que sus efectos definitivos son inciertos porque una nueva fuerza viene á obrar entre una multitud de fuerzas naturales que todavía están en estado de equilibrio instable; y que habiéndose inaugurado una corrosion bien definida en la márgen izquierda, ésta puede continuar, cuando haya cesado de ejercer influencia directa la causa original determinante.

El número de crecientes que expresa Mr. Ernst para que se produzcan los efectos que temen, ha pasado ya, y los referidos efectos no se han verificado. El mismo conviene en que esos efectos son únicamente probables. En seguida dice que los efectos definitivos son inciertos y concluye diciendo que puedo suceder que siga la corrosion que para el se ha inaugurado.

Si pues ya llegó la ocasion que, en su concepto, ha de determinar los efectos que predice, y estos efectos no se han producido, si el mismo conviene en que lo que teme es solamente probable y no seguro, y en que los efectos definitivos son inciertos creo que debemos atenernos á los hechos ocurridos ya, por los que se ve que el temido perjuicio al lado izquierdo no ha tenido lugar aun, limitándose el efecto de las obras al de simple defensa como lo digo en mi proyecto, y como recibí instrucciones de ejecutarlo.

Pasa en seguida Mr. Ernst á opinar sobre si las obras son de las permitidas por el artículo tercero de la Convencion de Noviembre 12 de 1884, y haciendo sus considerandos deduce que las obras de que se trata son de carácter agresivo y proyectan indebidamente sobre la corriente.

Yo opino lo contrario y voy á tratar de demostrarlo.

El artículo tercero dice que no se permitirá que la linea divisoria determinada por las Comisiones de 1852, sea alterada en el curso navegable del rio, ya sea por la construccion de jetties, etc, y que no se considerará como cambio artificial la proteccion de las riberas contra la corrosion cuando se pongan revestimiento de piedra ó de otro material que no proyecte indebidamente sobre la corriente. En el caso que me ocupa no se trata de la linea trazada en 1852, porque esta esta cerca de dos mil metros á la izquierda del cauce actual del rio. No se trata tampoco del curso navegable del rio, porque en esta parte de su curso no es ni puede ser navegable y las obras no proyectan indebidamente sobre la corriente del rio

porque su efecto no es otro que el de un simple revestimiento, lo que quedara demostrado por la experiencia, si se ponen en duda mis teorías por estar en pugna con las del ingeniero Ernst.

Reasumiendo dice Mr. Ernst que en su concepto el Gobierno mexicano está construyendo obras que proyectan indebidamente sobre la corriente con perjuicio de los ciudadanos americanos propietarios de la orilla izquierda.

Sobre este punto y reasumiendo tambien, debo decir que ni proyectan indebidamente las obras, por las razones expuestas, ni hay hasta ahora perjuicio para la orilla izquierda, ni esa orilla izquierda pertenece á ciudadanos americanos, porque la Convencion de 1884, no puede tener efecto retroactivo y si la linea de 1852 debe ser religiosamente respetada ninguna variacion se hará jamas en ella (articulo V del tratado de Guadalupe Hidalgo) es claro que por lo menos la propiedad particular de estos terrenos, no puede perderse y que estos continuan siendo, de derecho, de la propiedad de los ciudadanos mexicanos que los poseian cuando el rio los segregó de su margen derecha para dejarlos en la izquierda.

Protesto á Usted mi respeto y consideracion.

Libertad y Constitucion. Paso del Norte, Julio 2 de 1889.

(Firmado.) I. GARFIAS.

Al SECRETARIO DE FOMENTO Mexico.

Es copia. Washington, D. C. Enero 25 de 1890.

C. ROMERO

Srio.

[Translation.]

LEGATION OF MEXICO,
WASHINGTON, *January 28th, 1890.*

Mr. SECRETARY:

As your Department requested me, under date of May 1st, 1889, to communicate to the United States Government the report of Don Ignacio Garfias, the Mexican engineer who was associated with Major Ernst, of the U. S. Engineer Corps, in examining the works constructed on the Rio Bravo del Norte (Rio Grande) for the protection of the bank of the city of Paso del Norte, I have the honor to transmit to you a copy of the remarks made by Mr. Garfias on Major Ernst's report. They bear date of July 2d, 1889, and have just been sent to me by Mr. Garfias himself, on leaving Paso del Norte in order to go to Tehauntepec on similar business for the Mexican Government.

I also enclose the three photographs mentioned in the report of Mr. Garfias, calling your attention to the explanation which is found on the back of each; as to the drawing that is mentioned in the aforesaid report, I would state that I have not yet received it, but as soon as I do, I will send it to you.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. JAMES G. BLAINE, *etc.*, *etc.*

Enclosures: Report of Mr. Garfias and three photographs.^a

[Inclosure.]

[Translation.]

Direction of Hydraulic Works in the Rio Bravo (Rio Grande) at Paso del Norte.—The communication from your Department, No. 3,478 of the 3d section, bearing date of April 6th, reached me just as we were awaiting the freshets in order to be able to answer and combat the opinions expressed by Major Ernest in his report to the Secretary of State of the United States; I desired to wait until the freshets were over, and had produced their effects, so that I might then present a statement of the facts, which are the most eloquent arguments. The water in the river has now subsided almost to its normal condition in summer, leaving the banks dry which have been newly formed owing to the effect of the works. The enclosed drawing shows the present state of the bed of the river, and on that drawing and on the photographic views which I also enclose I propose to base the observations suggested by a perusal of Major Ernest's report. I shall follow the order adopted by that engineer, touching upon all the points comprised in his report. Referring to the drawing which I enclose, it is proper for me to remark that the line which marks the state of the river in 1885, merely shows the stream of water which existed at the time when I made the drawing, and not the bed proper, which is clearly shown in my drawing; and that the line of the Central Railway and that of the tramway were not made to coincide with those of the streets which they occupy, perhaps because the common point of the two drawings was not accurately determined when the reductions were made. Major Ernst begins by describing the bed of the river, and says: "When the Rio Grande leaves the rocky gorge just above El Paso, it enters an alluvial plain, five or six miles wide, through which it runs in a bed

^a [Photographs not reproduced.—Agent's note.]

of its own formation. The banks and bottom are of light earth and sand, easily moved by the currents * * *. At the lowest stage the water ceases to flow, and, except in detached pools, the bed becomes entirely dry. * * * The size and character of the stream are ever varying, and its requirements as to form and dimensions of bed vary equally. The river's work of altering its bed to suit the necessities of the moment is never-ending. The bed as it happens to exist now, is the final resultant of all efforts of the stream, some of which have neutralized and some have aided each other, but the bed is not fixed. It is shifting from one position to another, altering its course, eroding one bank and building up the opposite one, forming islands and bars, and then destroying them. The result of the natural changes is most noticeable in a bend where the erosion of the concave shore is sometimes continuous for many years, as appears to have been the case at El Paso. The location of the river at this place, as it was found in 1855, is shown in black upon Plate I, which is an enlargement of a portion of sheet 29, U. S. Mexican Boundary Survey, furnished me with your letter of instructions. Upon the same plate is shown, in red ink, the location of the stream as it was found by Mr. Garfias, the Mexican engineer, in 1885. It will be observed that between those dates there has been a very considerable encroachment upon Mexican territory, with a corresponding advance of the American shore. The maximum distance between the shore of 1855 and that of 1885 is about five eighths of a mile, and the total area added to American territory is about 490 acres." These assertions of Major Ernst are very important. He admits that the earth in which the bed is formed is easily moved; that the bed is changing, owing to the natural action of the water, and that, from 1855 to 1885, the change has been to the detriment of Mexico to the extent mentioned. According to this, supposing, although not admitting, that the avulsion should occur on the American side, though it has not occurred there during the three freshet seasons which have elapsed since the first Mexican defensive works were built, it would be very difficult, if not impossible, to prove that the said avulsion had been caused by the works. My opinion is that there will be no avulsion on the American side, for the following reasons. Taking account simply of the capricious changes that might be produced by the current, those changes are more likely to occur on the Mexican side, where the soil, being of

natural formation, is formed by a layer of vegetable earth lying upon another of movable sand, which is very easily washed away, thus leaving the vegetable earth without any support; this earth then inevitably gives way. All the part gained on the American side, opposite to the works, is formed by a mixture of sand and earth, which, together with the matter brought down by the river, forms a mixture which is solid in comparison with the layer of sand that forms the subsoil of the Mexican side. Technically, the demonstration is simpler and clearer. Supposing the current to be parallel with the banks; if a spur is inserted at a given angle, the deviating force of the spur may be decomposed into two forces, one perpendicular and the other parallel to the side of deviation, and this latter force will be proportional to the co-sine of the angle which the spur forms with the bank. Moreover, the quantity of water which comes in contact with the spur (espolon) is proportional to a perpendicular line drawn from the extreme point of the spur to the bank, or to the sine of the same angle; the result is that the force with which the water will run parallel to the spur, will be equal to the product of the sine multiplied by the co-sine of the angle which the work forms with the bank, and as this product is nothing when the spur is parallel to the opposite bank, it is plain that there can be, technically, no detriment, because, with the exception of work no. 2, all the works are parallel to the left bank. Major Ernst shows how great is the distance or projection of the extremity of each work (dyke) from the right bank in its present state, but let the drawing be examined, and it will be seen that that distance is nothing if taken on the opposite bank, which is the way in which it should be measured and considered, for, according to the system of calculating adopted by Major Ernst, it may be found to be greater than the normal width of the entire river. The distance or projection is not, in this case, to be taken into the account, a bank being taken as the basis whose destruction is constantly going on, but the angle formed by the works with the opposite bank, which has undergone no change since the works were commenced. Major Ernst goes on to say that I have taken the ground that the left bank as well as the right bank belongs to Mexico, and that any works that might be required to push the river back to the position which it occupied in 1855 would be legal and proper, provided they did not interfere with navigation. He then adds, in parentheses: "There is no navigation of any kind upon this portion of the river, except a small

skiff used as a ferry, and there never can be any." This is correct, because the treaty of Guadalupe Hidalgo expressly says that no change shall ever be made in the boundary line as drawn by the joint commission, and that neither party shall construct any work that may impede or interrupt the right of navigation. This being an express agreement, in which all the doctrines having reference to the case are abundantly laid down, the line having changed, as is known to everybody, and as is stated by Major Ernst himself, and there being no navigation the right of which could be interrupted, it is clear that the Mexican Government has a right to construct any kind of works, provided that the line do not pass the location that legally belongs to it. Notwithstanding this indisputable right, I have already shown that the works projected and executed by me were not designed to encroach upon the left bank, nor have they yet done so, whatever may be feared or prophesied to the contrary by interested and partial persons. Maj. Ernst then proceeds to give the dimensions of the works constructed, stating the distance of the extreme point of each one from the left bank, and computing this distance to the widest part of the erosion, with regard to which unwarranted manner of estimating the projection I have already stated my views, and, when he comes to no. 6, which was the one that occasioned the complaint advised by Mr. Caldwell, the lawyer, he says that the river is here divided into two arms, but that, since the right arm is the deeper arm, the middle of it is the boundary between the two countries. On this point Maj. Ernst is in error. The treaty says that the middle of the river is the boundary line, and only fixes the middle of the deepest channel in order to meet the case of there being more than one channel. Yet it is evident that a division is contemplated into two or more permanent channels formed by one or more permanent islands; there are no currents that are constantly changing, and which even disappear entirely, so that, as there is no stream, but only a dry bed, the middle of this bed must be the jurisdictional boundary. Besides, article IV of the convention of 1884, says: "If any international bridge have been or shall be built across either of the rivers named, the point on such bridge exactly over the middle of the main channel as herein determined shall be marked by a suitable monument, which shall denote the dividing line for all purposes of such bridge, notwithstanding any change in the channel which may thereafter supervene." Now, since in this case there is but one channel, viz. the bed of the river,

it is evident that the center of that bed is the jurisdictional boundary line. Major Ernst admits that the sand banks in this river are constantly appearing and disappearing, and consequently, as they alter the shape and depth of the channels, it would be necessary, in order to determine the jurisdictional line, to take soundings in the channels every time that a doubt on this point should arise. As such a thing would be absurd, I think that, in case there is no permanent island, the jurisdictional line is the center of the bed, although the boundary line may be different. Maj. Ernst, in summing up, asserts that the five dikes which he saw after their completion project from sixty to two hundred and fifty feet from the Mexican bank, and occupy, at the points where they are located, from about one quarter to more than one half the entire width of the stream between high water banks. It is not fair to look at things on their wrong side. Those same distances, taken at one of the former positions of the right bank, would give no projection, or they would give a negative one. Dike no. 4, which, according to Major Ernst, is the one whose projection is greatest, being 250 feet, now occupies the position which, two years before its construction, was occupied by the bank of the river, as is shown in the drawing by means of red dots. Maj. Ernst measures the projection to the extremity of the opening formed by an erosion which, had it not been checked, would have penetrated as far as the church, in which case it would have been asserted that the dike projected thousands of feet. Maj. Ernst says that the projection of dike no. 5 is about 170 feet, and if the distances are measured from the point where the work begins and from its extreme salient point to the other bank, the distance will be 117 metres for the first and 123 for the second, that is to say, the extreme point is distant from the opposite bank six metres more than the point of beginning, which makes the projection negative. The time has arrived for an elucidation of the cause alleged for the complaint. The telegram sent by Mr. Caldwell, the lawyer, to the Governor of the State of Texas, and Mr. Caldwell himself, in the discussion of the matter which was held by the City Council on the night of November 9th, declared the work to be a solid dam, and said that a portion of that dam was in the streets of the city of El Paso. Neither of these assertions is true. Dike no. 6, which is the one referred to, began to be built parallel to the opposite bank, and no dam would be possible in such a

position; it is not solid, for a system has been chosen which allows the free passage of the water through the dike; it does not occupy the streets of the city of El Paso, because the river is there two hundred metres wide opposite to the point where the work begins, and one hundred and eighty-five metres wide opposite to its furthest extremity, so that it projects but fifteen metres over the axis, and lacks 77 metres and 5 centimetres to reach the jurisdictional line, and more than a thousand to reach the boundary line. In order to remove all doubt on this head, I had the enclosed photographs taken one day when dike no. 6 was not covered by the water. From these views it appears that dike no. 6 occupies two of the twenty-eight open spaces under the tramway bridge, which fact shows how incorrect are the assertions made in Mr. Caldwell's telegram. In order completely to overthrow the arguments based on the statement that dike no. 6 crosses the Rio Grande and has one of its extremities in the streets of El Paso, it is proper for me to say that the capricious changes in the currents have brought about a state of things which is just the reverse of that which existed at the time when the complaint was made. The channel which was crossed by dike no. 6 (or which crossed dike no. 6) has now become entirely dry, and there is no passage of water save on the left side of the bed. If Mr. Caldwell's theory with regard to the boundary line were to be accepted, this question would have to be considered as settled, since in that case the soil of Mexico and even the streets of El Paso might be considered as extending as far as the middle of the new channel, the deepest that is left by no. 6, at a distance of more than a thousand metres to its right, in which case all the objections advanced by the authorities of El Paso would be overthrown. Maj. Ernst then presents an argument which, as offered by him, is the only one that appears at all solid.

He says that the effect of my works will be to cause a material reduction of the bed of the river, and that, in order to restore the area of the cross section, the water will have to work partially at the expense of the opposite bank, and partially at the expense of the bottom; he adds that, as the material of the bottom is heavier than that of the bank, the restoration of the area of cross section will be made principally at the expense of the opposite shore. This theory is perfectly correct; it contains, however, an important error; it supposes the section between the works and the left

bank to be insufficient, while, in order to demonstrate the contrary, neither figures nor calculations of any kind are necessary. A glance at the drawing is sufficient, from which it appears that the works have been built in a part of the river where the width of the bed is much greater than in the part comprised between the dam and dike no. 1, and that the resultant section between the works and the left bank is greater than that of the river in the high part referred to; very well; if the water is contained in the section of the part in front of the works, and does not overflow or cause erosion, there is no reason why such a thing should take place opposite to the works with a larger section.

In this part of his report Maj. Ernst infers that, according to my theories, the width of a river * * * can be contracted one fourth by works constructed upon one side of it only, which, he thinks, will not be admitted by any hydraulic engineer. Maj. Ernst certainly did not consider the difference in the width of the section of the river before the works were built and in the places of their location, for, had he done so, he would not have deduced the absurd theory which he attributes to me.

Maj. Ernst next proceeds to estimate the result which, in his opinion, will be occasioned by the works, and says: "if nos. 1, 2 and 3 are maintained in the condition in which they have been constructed, they will push out the Mexican shore to approximately the same distance that they themselves extend into the stream, and, as the result of this, there will be a slight deepening of the channel, but the American shore will recede a distance only a little less than that by which the other shore will advance. If allowed to stand the wear and tear to which they will be subjected, without repair, they will cause a less advance and a less recession of the opposite shore. In the case of dikes 4 and 5, I should expect a similar advance of the Mexican shore, but, owing to the sharp bend here, not much, if any, recession of the opposite one, except what might be caused by the works above. The probable effect of dike 6, if completed, is more serious. In connection with no. 5 above and 7 below, it would probably close the right arm of the river, and throw the entire volume into the left arm, thus making the boundary difficult of identification, and transferring all the destructive power of the river to American territory * * *. No. 8 would cause an advance of the Mexican shore, and possibly some recession of the opposite one, but, owing to the fact that the

opposite shore here diverges with a sharp bend, the latter result may not occur."

As is seen, all these predictions are based solely on hypotheses which have not yet become facts.

Counting the freshets which took place in April and May last, three have occurred since dikes 3 and 4 were completed, two since the completion of nos. 1 and 2, and one since that of no. 5, yet the recession of erosion of the left bank predicted by Maj. Ernst has not taken place.

If such erosion had occurred, attention would ere this have been called to it by those interested in the suspension of the works; these parties would have presented the plans of the State engineer and of the city engineer, and also those of the real estate companies, whose plans are in existence, as I know, because I have seen them. Maj. Ernst was not allowed to see them because they simply served to prove the correctness of my assertions.

With regard to the effect of dike no. 6, which Maj. Ernst considers more serious, my opinion is wholly different, and, in an official communication, I have already stated that, inasmuch as that dike is not likely to produce any effect at all, it is useless and might better be removed. The alteration of the channel towards the left bank, without the assistance of dike no. 6, has shown the correctness of my prediction, and the groundlessness of the opinion expressed on this subject by Major Ernst.

That gentleman says that the effects which he points out "are given as the probably effects of the works after two or three high water seasons." Their ultimate effects are somewhat uncertain. A new force is injected among a multitude of natural forces which are already in a state of unstable equilibrium. A well defined erosion of the left bank having been inaugurated, may possibly continue after the original inciting cause has ceased to exert a direct influence.

The number of high water seasons mentioned by Maj. Ernst as likely to produce the effects which he fears has already passed, and the effects in question have not been produced. Maj. Ernst admits that those effects are merely probable, and, in the next place, says that the ultimate effects are uncertain.

If the time has already arrived which, in his opinion, was to occasion the effects predicted by him, and if those effects have not been occasioned, if he himself admits that what he fears is merely probable, and not certain, and that the ultimate effects are uncer-

tain, I think that it is proper for us to consider what has already taken place, which shows that the injury which it was feared would happen to the left side has not yet taken place, and that the effect of the works is simply defensive, as stated by me in my plan, and as I was instructed that it should be.

Maj. Ernst next proceeds to give his opinion as to whether these works are in conformity with those permitted by the 3d article of the convention of November 12th, 1884, and, after stating his grounds, comes to the conclusion that the works in question are of an aggressive character, and that they project unduly into the current of the river.

My opinion is diametrically opposed to his, and I will endeavor to demonstrate its correctness.

The 3d article says that the boundary line determined by the commissions of 1852 shall not be allowed to be changed in the navigable course of the river, by the construction of jetties, etc., and that the protection of the banks from erosion shall not be considered as an artificial change when a revetment of stone or other material is made, which does not unduly project into the current. In the case now under consideration, the line drawn in 1852 is not concerned, because that is nearly two thousand metres to the left of the present bed of the river. Neither is the navigable course of the river concerned, because, in this part of its course, it is not and can not be navigable, and the works do not project unduly into the current of the river, because their effect is merely that of a simple revetment, as will be shown by experience, if my theories are doubted because they are at variance with those of Major Ernst.

In summing up, Maj. Ernst says: "The general result of my investigation is that the Mexican Government has constructed, and is constructing, works which project unduly into the current of the river, to the injury of American citizens owning the left bank."

On this point, and also summing up, I must say that the works do not unduly project, for the reasons already stated, nor has any injury been hitherto done to the left bank, nor does that left bank belong to American citizens, because the convention of 1884 can have no retroactive effect, and if the line of 1852 is to be religiously respected, no change will ever be made in it. (See article V of the treaty of Guadalupe Hidalgo.) It is evident, at least, that the private ownership of these lands can not be lost, and that they continue rightfully to belong to the Mexican citizens who

owned them when the river removed them from its right bank, and carried them over to its left.

I beg you to accept the assurances of my respect and consideration.

I. GARFIAS.

Liberty and the Constitution.

Paso del Norte, July 2d, 1889.

To the SECRETARY OF PUBLIC WORKS, Mexico.

A copy.

C. ROMERO, *Sec'y*.

Washington, D. C., January 25th, 1890.

Señor Romero to Mr. Blaine.

LEGACION MEXICANA,
WASHINGTON, *Enero 30 de 1890.*

Señor SECRETARIO:

Tengo la honra de remitir á Ud. copia de una comunicacion que el Presidente Municipal de la ciudad de Matamoros, dirigió el 13 del corriente al Cónsul de México en Brownsville, de la que resulta que el dia 7 se presentaron al Comisario suplente de la Seccion 15ª de la Municipalidad de Matamoros, varios vecinos de la misma ciudad, manifestándole que en el Banco de Surron, que se dice está en territorio mexicano, había empezado á construir una cerca el Doctor G. S. Smith, residente en el Rancho del Ebanito, á una milla de Santa Maria, condado de Cameron, Texas, diciendo que le pertenecia el terreno, sin embargo de que varios vecinos de Matamoros le manifestaron que correspondía á Mexico, y agregando que tenía fuerza armada que lo protegiera en la construccion de la expresada cerca, cuya fuerza consistía en cinco Rangers y tres soldados del ejército de los Estados Unidos.

Como, á ser ciertos los hechos relatados en el citado documento, aparecería que un ciudadano de los Estados Unidos, con el apoyo de fuerza armada, está invadiendo territorio Mexicano, suplico á Ud. se sirva averiguar de las autoridades locales de Texas lo que haya sobre este asunto, para que en el caso de que los hechos resulten como se refieren, y mientras se determina á quien corresponde el terreno donde se ha empezado á construir, se proceda conforme á las estipulaciones del tratado de 12 de Noviembre de 1884, entre Mexico y los Estados Unidos.

Sirvase Ud. aceptar, Señor Secretario, la seguridad de mi mas distinguida consideracion.

M. ROMERO.

Hon. JAMES G. BLAINE,
etc etc etc.

Anexo—Copia de comunicacion del Presidente Municipal de Matamoros ál Consul de México en Brownsville. Enero 13 de 1890.

[Inclosure.]

Un sello que dice:==Consulado de la Republica Mexicana==Brownsville—No. 1==Un sello que dice:=Presidencia del R. Ayuntamiento de la H. Matamoros==Enero 13 1890==Con fecha 9 del actual el Comisario Suplente de la Seccion 15 de esta Municipalidad me dice lo que sigue:==Con fecha 7 del presente se me presentaron los vecinos Amado Cantú, Perfecto Castañeda, Leonides Salas, manifestando que en “Banco del Surron,” ha empezado el Dr. G. S. Smith, con rancho en el “Evanito” á una milla de Santa Maria, Condado de Cameron, á echar una cerca sobre el terreno mexicano perteneciente al Banco, diciendo este que aquella tierra era de él, y entónces los residentes en el Banco le dijeron: que no hiciera ningun trabajo allí, porque era terreno de México, pero este no atendió á nada, y les dijo: que él iba á echar allí su cerca, y si á ellos no les parecia, que á él no le importaba, que él tenia soldados y que para el efecto los habia traído y eran 5 Rangers y tres soldados del Ejército americano; me han dado aviso los vecinos de los que les pasaba y anunciándome que fuera al Banco, para que hablara con el expresado Doctor y así lo hice acompañado de tres vecinos. Pregunté al Dr. porqué andaba haciendo allí aquel trabajo, que si no comprendia que estaba en terreno mexicano, que viera que su cerca ha de ir por donde esté seguro que vá su línea que no trabajara mas allí; entonces él me contestó que no dejaba de trabajar, que él iba á echar su cerca, y que si alguno se lo impedia, él tenía soldados que los sostuvieran.—Y lo pongo en el superior conocimiento de esa autoridad: y dicho extranjero ha ido á atropellar con tropa armada á terreno mexicano, intimidándo á los vecinos, asegurándome éstos que están ciertos y seguros que este americano echa esa cerca en tierra mexicana.—Lo que transcribo á Ud. para los fines que estime convenientes, manifestándole á Ud. que este negocio se lo comuniqué en telegrama al Gobernador del Estado para su conocimiento y fines consiguientes.—Lib. y

C. H. Matamoros, Enero 13 de 1890=Cip° Villanueva=rúbrica.=
Es copia.=(firmado M. Treviño.

Es copia.

Washington, Enero 30 de 1890.

ADOLFO MÚJICA Y SÁYAGO

2° Srío.

[Translation.]

LEGATION OF MEXICO,

WASHINGTON, *January 30th, 1890.*

MR. SECRETARY:

I have the honor to send you a copy of a communication addressed on the 13th inst., by the Municipal President of the city of Matamoros to the Consul of Mexico at Brownsville, from which it appears that several residents of Matamoros presented themselves, on the 7th, before the acting Commissioner of the 15th Section of the Municipality of that city, and stated that Dr. G. S. Smith, residing at the Ebanito ranch, one mile from Santa Maria, Cameron County, Texas, had begun to build a fence on the "Banco de Surron," which is said to be in Mexican territory. These persons said that Dr. Smith claimed that the land belonged to him, although he had been told by various residents of Matamoros that it belonged to Mexico; he added that he had an armed force at his disposal, which would protect him in the construction of the aforesaid fence; this force consisted of five rangers and three soldiers belonging to the United States army.

If the statements made in the aforesaid document are true, it would appear that a citizen of the United States is invading Mexican territory with the support of an armed force. I therefore beg you to make inquiry of the local authorities of Texas as to the facts of this case, so that, if it shall appear that they are as stated, and pending a decision with regard to the ownership of the land on which the fence is now in course of construction, the stipulations of the treaty of November 12th, 1884, between Mexico and the United States, may be executed.

Be pleased to accept, Mr. Secretary, the assurance of my most distinguished consideration.

M. ROMERO.

Hon. JAMES G. BLAINE, etc., etc.

Enclosure: Copy of a communication, dated January 13th, 1890, from the Municipal President of Matamoros to the Consul of Mexico at Brownsville.

[Inclosure.]

[Translation.]

A seal containing the words: Consulate of the Mexican Republic, Brownsville. No. 1. A seal containing the words: Office of the President of the Corporation of H(eroic) Matamoros. January 13th, 1890. Under date of the 9th instant, the acting Commissioner of the 15th Section of this Municipality wrote me as follows: On the 7th instant Amado Cantú, Perfecto Castañeda and Leónidas Salas, residents of this city, appeared before me, and stated that Dr. G. S. Smith, who lives on the ranch known as the "Ebanito," one mile from Santa Maria, Cameron County, had begun to build a fence at "Banco del Surron," on Mexican land belonging to the said Banco, claiming that the said land was his property, and that the residents of the Banco had told him not to do any work there, because it was Mexican land; but that Dr. Smith had paid no attention to anybody, and had told them that he was going to build his fence there, and that if they did not like it, he did not care; that he had soldiers whom he had brought there for that purpose, viz. five rangers and three soldiers of the American army; the persons aforesaid told me what was going on, and requested me to go to the Banco, in order to speak with the doctor, which I did, accompanied by three residents; I asked the doctor why he was doing that work there, and whether he did not know that he was on Mexican soil; I told him that he was going to build his fence partly, at least, in Mexican territory, and that he must stop work; he answered that he would not stop; that he was going to build his fence, and that, if any one undertook to prevent him, he had soldiers to back him. And I bring these facts to your knowledge. And the said foreigner had taken possession of Mexican land with the assistance of an armed force, intimidating the inhabitants, who have assured me that they are certain that this American is building his fence on Mexican land. I transcribe the foregoing to you for such purposes as you may think proper, and I would state that I have already telegraphed a report of this matter to the Governor of the State for his information and for such action as he may deem suitable. Liberty and Constitution. H. Matamoros, January 13th, 1890. Cip°. Villanueva. Flourish. A copy. (Signed) M. Treviño.

A copy.

Washington, January 30th, 1890.

ADOLFO MÚJICA Y SAYAGO,

Second Secretary.

Mr. Blaine to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *March 3, 1890.*

Señor DON MATIAS ROMERO,
etc.

SIR:

I have the honor to acknowledge the receipt of your note of the 28th January last, together with the comments which accompanied the same, of Don Ignacio Garfias, Engineer, on the Report of Major O. H. Ernst, U. S. A., contained in Ex. Doc., No. 144 (S) 50th Congress, 2d Session, on "the construction of certain dams in the Rio Grande" at Paso del Norte.

Awaiting the receipt of the "drawing" which you mention, I avail myself, etc.

JAMES G. BLAINE.

Señor Romero to Mr. Blaine.

LEGACION MEXICANA,
WASHINGTON, *Marzo 3 de 1890.*

Señor SECRETARIO:

He tenido la honra de recibir la nota de Ud. de esta fecha, en que acusa Ud. recibo de la que le dirigí el 28 de Enero último, acompañándole copia de las observaciones del Ingeniero mexicano Don Ignacio Garfias al informe del Mayor O. H. Ernst del Ejército de los Estados Unidos con motivo de las obras construidas por el primero en el Rio Bravo del Norte, cerca de Paso del Norte, México; y me informa Ud. que espera recibir el plano mencionado en mi nota citada.

No ha llegado ese plano á mi poder, y por este motivo, no lo he remitido á Ud. El Señor Garfias ha sido trasladado por el Gobierno de México, de Paso del Norte á Tehuantepec, y esto dificulta la remision de dicho plano; pero ya lo pido á la Secretaría de Fomento de México, por conducto de la Secretaría de Relaciones Exteriores, y luego que lo reciba, tendré la honra de remitirlo á Ud.

Sírvase Ud. aceptar, Señor Secretario las seguridades de mi mas distinguida consideracion.

M. ROMERO.

Hon. JAMES G. BLAINE,
etc. etc. etc.

[Translation.]

LEGATION OF MEXICO,
WASHINGTON, *March 3d, 1890.*

Mr. SECRETARY:

I have had the honor to receive your note of this date, whereby you acknowledge the receipt of that which I addressed to you on the 28th of January last, enclosing a copy of the comments made by Don Ignacio Garfias, a Mexican engineer, upon the report of Major O. H. Ernst, U. S. A., concerning the works constructed by Mr. Garfias in the Rio Grande, near Paso del Norte, Mexico, and you inform me that you hope to receive the drawing mentioned in my aforesaid note.

I have not yet received the drawing in question, and am consequently unable to transmit it to you. Mr. Garfias has been ordered by the Government of Mexico from Paso del Norte to Tehuantepec, which renders the forwarding of the drawing difficult; I shall, however, at once request the Mexican Department of Public Works to send it through the Department of Foreign Relations, and as soon as I receive it, I shall have the honor to transmit it to you.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. JAMES G. BLAINE, *etc., etc.**Mr. Blaine to Señor Romero.*DEPARTMENT OF STATE,
WASHINGTON, *March 21, 1890.*Señor Don MATIAS ROMERO,
etc. etc.

SIR:

Adverting to your note of January 30th last, in relation to a complaint by several residents of Matamoros in which it was alleged that Dr. G. S. Smith, residing at Ebanito ranch, Cameron County, Texas, had begun to build a fence on the "Banco de Surron," claimed to be in Mexican territory, and had supported himself by an armed force, I have now the honor to reply to you at length on the subject.

In accordance with the assurance conveyed to you by my note of February 12th ultimo, I transmitted to the Governor of Texas,

a copy of your note herein referred to, with the request that he acquaint me with such knowledge of the case as might be obtainable by state officers under his direction. In a letter under date of the 13th instant, Governor Ross advises me that the matter was entrusted to W. H. King, Adjutant General of the State of Texas, and an investigation ordered. The investigation having been promptly undertaken and completed, the Governor has supplied me with copies of the official letters and maps therein, transcripts of which are herewith enclosed for your information.

I am impressed by the apparently truthful and unprejudiced tone of these communications from the state and county authorities; and, from a careful examination of the maps accompanying them, I am inclined to the opinion that the terms of the treaty of November 12, 1884, between the United States and Mexico, have been conscientiously complied with by Dr. Smith.

Assuming the facts to be as stated, and the maps to be accurately drawn, it appears that Dr Smith, with the commendable purpose of avoiding all difficulties as to bounds and limits between himself and the residents of the *Banco*, was careful to construct his fence within the lawful boundary of his own lands, and within a line upon which a former fence had stood for several years, during a period in which the property was in the hands of one of his fellow-citizens.

It furthermore appears, from the letter of the official Surveyor of Cameron County that Dr. Smith holds his lands under a decree of the County Court which defines them, and that a former surveyor in running his line, assigned to the Banco, within the jurisdiction of Mexico, accretions of soil on the Texas side of the river, and in the case in question; such accretions in part of a Mexican Banco being regarded generally in that vicinage as unclaimed land.

So far as the complaint in discussion relates to the employment of an armed force of United States troops and Texas Rangers by Dr. Smith, it appears that he solicited their services for purposes of moral support and in the intent of peace, and that no act of aggression or defence was performed by them—the only act of aggression having been that of the residents of the Banco before the arrival of the protective force in question.

Moreover, it is alleged both by the Captain of the Rangers and the Sheriff of the county that the “Banco de Surron,” with other Bancos in the river, is a place of refuge for outlaws from both sides, and that one of the complainants against Dr. Smith is a fugitive

from justice and a resident of the Banco, who fled from Cameron County under a charge of the crime of murder.

Trusting that the information as conveyed may fully meet your inquiry, I avail myself, etc.

JAMES G. BLAINE.

Enclosure.

1. General King to Governor Ross, March 13, 1890.
2. Capt. Brooks to General King, March 6, 1890.
3. Sheriff Brito to General King, March 4, 1890.
4. Surveyor Hord to Capt. Brooks, March 4, 1890.
5. Surveyor's Map of property of G. S. Smith.^a
6. Section of Map of Cameron County, Texas.^a

[Inclosure.]

Gov. Ross to the Secretary of State.

EXECUTIVE OFFICE,
AUSTIN, *March 13, 1890.*

To the Honorable

J. G. BLAINE—*Secretary of State*

Washington, D. C.

SIR:

In reply to your communication of Feby. 12, 1890, transmitting copy of a letter from the Minister of Mexico and complaint of citizens of Mexico against Dr. G. S. Smith for fencing up land claimed to be on Mexican territory, and against U. S. Soldiers, and Texas Rangers for interfering in behalf of Dr. Smith, I have the honor to inform you that said papers were referred to W. H. King, Adjutant General State of Tex. for investigation, which was done by letter to Capt. J. A. Brooks, Commd'g Co. "F" frontier Battalion, dated Feby. 18, 1890. The enclosed letters from Gen'l W. H. King; Capt. J. A. Brooks; Sheriff Brito, and County Surveyor Hord, together with maps, in answer to said complaint are herewith enclosed, for your consideration.

Very respectfully

Your obd't Ser't

L. S. ROSS
Governor of Texas.

5 Enclosures.

[^a Last 2 enclosures omitted. See "Elimination of Bancos," p. 57, for map of "Banco de Surron (or El Zurrón)."—Agent's note.]

[Sub-inclosure 1.]

Genl. King to Gov. Ross.

ADJUTANT GENERAL'S OFFICE,
STATE OF TEXAS.

AUSTIN, TEXAS, *March 13 1890.*

His Excellency,
L. S. Ross,
Governor of Texas.

SIR:

I have the honor to enclose herewith a letter from J. A. Brooks, Capt. Commanding Company "F" Frontier Battalion, dated Mch 6 1890; one, from S. A. Brito, Sheriff of Cameron County, dated Brownsville Mch 4, 90; one from Jno. S. Hord, County Surveyor, Cameron County, dated Brownsville, Mch. 4, 90, with plat showing location of Dr. G. S. Smith's land, "banco," and line of fence in dispute; and a map of Cameron County by J. J. Cocke ex-County Surveyor, with certificate as to his having surveyed Dr. Smith's land a few years ago.

These letters and maps are the result of an inquiry made by letter from this office, to Capt. J. A. Brooks, of date Feby. 18, 1890, on complaint of citizens of Mexico against Dr. G. S. Smith for fencing up land on Mexican territory, and against U. S. Regulars, and Texas Rangers, for upholding and assisting Dr. Smith, in his purpose of fencing the land; said complaint being made through Mr. M. Romero, Minister of Mexico, to the Honb. J. G. Blaine Secretary of State, and by him referred to you by letter of 12th ult.

Very respectfully,

Your obd't Serv't,

W. H. KING

Adj't Gen'l

per HENRY STAY,

Chief Clerk.

4 Enclosures.

[Sub-inclosure 2.]

Capt. Brooks to Genl. King.

HEADQUARTERS OF CO. "F" FRONTIER BATTALION,
SANTA MARIA, TEXAS, *Mch 6, 1890.*

Gen'l W. H. KING,
Austin, Texas.

SIR:

In reply to your communication of date February 18th touching the complaint of the Mexican Government, against Dr. G. S. Smith

and the Ranger force under my command, I beg leave to submit the following report. About the 5th of January last, Dr. G. S. Smith a citizen of Cameron County, Texas, came to my camp, at Santa Maria Texas and informed me that Mexican citizens living on the *Banco* called "El Surron," situated on the North side of the Rio Grande, and adjoining his land, had threatened to tear down a fence which he was constructing on his own land, between him and the banco, and that they threatened to throw him in the river, if he persisted in building the fence. Dr. Smith also stated that he was building the fence on the established and recognized line; that Col. J. G. Tucker also a citizen of Cameron County, had had a fence on the same line for years prior to the time he (Dr. Smith) obtained possession of the land, under a decree of the District Court of Cameron County in a suit between him and Col. Tucker for the land.

I told Dr. Smith that I would see that he and his property were protected, and would do all in my power to prevent trouble, I then left Santa Maria for Brownsville, where I went to attend the Federal Court on official business, and left instructions with Privt. T. Harris of my company to the effect, that if Dr Smith called on him for protection he should go to where the fence was being built and do all in his power to prevent trouble between the parties. I told him to be very careful how he acted as some question might arise in regard to the land and by all means to avoid trouble with the banco people.

About the 6th or 7th of the same month, during my absence in Brownsville, Dr Smith called on Privt Harris at Santa Maria, and requested him to accompany him (Dr. Smith) down in to his field where the fence was being constructed, and protect him and his property. Privt Harris with three men of the ranger force went to Dr. Smith's residence, there they found two U. S. Soldiers. From Dr Smith's residence, the rangers, regulars, and Dr Smith went in to his (Dr. Smith's) field and down to the fence. The two regulars went at Dr. Smith's request, and they were acting independently of the rangers. They went to where the fence was being constructed, and remained about two hours, and were not molested by any one. They found that the corner post next to the Rio Grande, put in by Dr. Smith had been pulled up. Dr. Smith continued to construct the fence. The rangers went back to the fence the next day and remained about two hours. No one came to complain of the fence or to inform Dr. Smith that the fence was

on Mexican territory during either of the times the rangers were there. The rangers in no way wronged any Mexican citizen, and did not knowingly enter upon Mexican territory. Dr. Smith did not ask the rangers to go upon Mexican territory or in any way to injure Mexican citizens, but simply asked that he be protected in his life and property. Dr. Smith showed the rangers the old "Tucker Fence line" which was built many years before. The new fence is a little inside of the old one. The last of Jany. Sheriff Brito came to my Camp to see me, about going on a scout after criminals, and while there, he informed me that complaint had been made by the Mexican Authorities against Dr. Smith and rangers. Sheriff Brito, Dr. Smith, Private Harris and myself then went to the fence and after making a careful examination, and from what information I gathered, I am firmly convinced that Dr. Smith's fence is on his own land, on Texas territory. We advised Dr. Smith to employ the County Surveyor, and request the Banco people to procure the Mexican Surveyor, and have the line run, and settle the dispute in that way. Dr. Smith said he was willing to adjust matters in that way, if the banco people would agree to it. Nothing has been done towards settling the matter so far. Dr. Smith stated further that he firmly believed that his land, by right, extended some distance beyond the fence.

Dr. Smith holds the land under the Sovereignty of Texas. It is situated within the recognized limits of Cameron County.

To the best of my information, the people on the banco claim the land in dispute, as part of the banco, which they claim under the Sovereignty of Mexico. Some of the parties on the banco are renters, others claim to be owners. One of the parties making the complaint, I mean Leonidas Solas, left Cameron County to avoid being prosecuted for the Murder of an old man, which he is charged with. He makes the banco his home, and to the best of my information has lived there since he left Texas. This banco as well as others on the river is and has been a harbor for outlaws and bandits. I herewith enclose a report of S. A. Brito, Sheriff of Cameron County, also a Map and report of John S. Hord, County Surveyor. These will more fully explain the situation of affairs. I also enclose part of a County Map, given me by J J Cocke.

Very respty

J. A. BROOKS
Capt. Comdg. Co. "F."

[Sub-inclosure 3.]

Sheriff Brito to Genl. King.

S. A. Brito, Sheriff, Cameron County.

BROWNSVILLE, TEXAS, *March 4th, 1890.*

General W. H. KING,

Austin, Texas.

SIR:

At the request of Capt. Brooks of the State rangers, I beg leave to submit the following relative to the Complaint of Mexican Citizens, against Dr. G. S. Smith, the rangers and regulars: I would state that several years ago, in my capacity as Sheriff of this County, it became my duty under a writ of possession, issued by our District Court to Dr. G. S. Smith, to put him in possession of the particular land now in question, when I went to place Dr. Smith, in possession I found John S. Hord Surveyor, of this County, surveying the lines between Col "J. G. Tucker's, and Dr. Smith lands, and upon his completing the lines I put Dr. Smith in possession, the writ of possession was issued to Dr. Smith under a decree rendered in a suit between him and Col "J. G. Tucker" for the land: I would state further, that the division line between Dr. Smith's land and the "Banco de Surron" was previously established by J. J. Cocke, then County surveyor, and which line is in conformity with said decree of Court. This division line has been acquiesced in by the "Banco people ever since it was run by Mr. Cocke, and not until the recent complaint, have I heard of any dispute regarding it. I would also state in connection with the foregoing that this and other bancos have been a great source of trouble to the authorities on both sides of the "Rio Grande," the fugitives from Justice fleeing from both sides find a ready harbor on them, and seek to avail themselves of the uncertainty, of the territorial Jurisdiction. Not only do they find a harbor but they audaciously and successfully have made the bancos the bases of operations in murdering and plundering in both territories, and in carrying on their petty revolutions, against the Mexican government, as was illustrated not long since by the attempted revolution of General Ignacio Martinez, who formed revolutionary, bands on this particular banco, and others along the river.

The bancos have been a source of considerable hinderance and vexation to me in the discharge, of my official duties, the uncertainty, of the Jurisdiction often deterring me from following evil doers behind whom I have been in pursuit.

Leonides Salas, one of the parties complaining, of the invasion of Mexican territory in this present question, is to my own knowledge, a fugitive from this side of the Rio Grande, he being charged with having, murdered an old man several years ago, at or near Santa Maria Texas, Leonides Salas, has made the "Banco del Surron," his home and hiding place since that time. About the last of January of this year I went to Santa Maria Texas, to see Capt. Brooks, on official business and while there I informed him of the complaint made by Mexican Citizens, Capt. Brooks state ranger, J. Harris, Dr. Smith and myself then went to examine the disputed line of fence, after examining the fence I can state that the fence so far from encroaching on Mexican territory is actually, within the line as surveyed, and is on land belonging to Dr. "G. W. Smith."

Very respectfully.

S. A. BRITO.

Sheriff Cameron County, Texas.

[Sub-inclosure 4.]

County Surveyor Hord to Capt. Brooks.

OFFICE OF COUNTY SURVEYOR
BROWNSVILLE, TEXAS, *March 4, 1890.*

Capt. J. A. BROOKS,

Capt. Co. F. State Rangers.

SIR:

Referring to plat annexed hereto showing the location of land belonging to Dr. G. S. Smith lying in Cameron County about 25 miles N W of the City of Brownsville on the left bank of the Rio Grande, and also showing a Mexican "banco" (cut off) lying between said Smith land and the Rio Grande, in its present course, said "banco" belonging to Mexican citizens and being under Mexican jurisdiction I would state:—

1st. Dr. G. S. Smith has a perfect chain of title to said land as is evidenced by the Co. Clerks records of this county.

2nd. The land referred to was allotted and set apart to Smith as his distributive share in a final decree of partition amongst the several heirs entered in the Honorable Dist. Court of Cameron County, Texas.

3rd. J. J. Cocke, then County Surveyor ran the division lines as shown on plat and ran off the "banco" by running along center of old river bed, as shown on plat, for division boundary line between Texas and Mexico.

4th. The width of Smith's land on base line is 1428 varas. Subsequent to the Cocke survey I relocated the line between Smith and Tucker and find it correct as shown. These division lines are parallel to each other and the width of Smith's land on the river should be the same as it is on the base line, as the formation of the "banco" in no way prevents Smith from getting his full river frontage.

5th. There is nothing in either of the boundary treaties between the United States and Mexico defining the territorial jurisdiction over lands made by *gradual accretion to either side of the river on the front of a cut-off or "banco."* Land-making by avulsion (banco) continues to belong to the country from which it makes; land-making by gradual accretion belongs to the side to which it makes; but land-making by gradual accretion to the Texas side of the river in front of a Mexican "banco" is, in default of any law governing the point, considered *terra incognita*. Different surveyors have therefore run off these "bancos" in different ways. Cocke, as will be seen by plat gave this accretion to the "banco" in question, to the Mexican side by running a neck from the "banco" to the river, but as will be noted this neck runs into the land belonging next above the Smith land and cannot deprive Smith of any river frontage as the owners of this "banco" have endeavored to do.

Very respectfully,

JNO. HORD,
Co. Surveyor, Cam. Co., Texas.

Señor Romero to Mr. Blaine.

LEGACION MEXICANA,
WASHINGTON, D. C. *22 de Marzo de 1890.*

Señor SECRETARIO:

He tenido la honra de recibir la nota de Usted, de ayer, y los seis documentos á ella anexos, referentes á la queja de vecinos de Matamoros, México, que trasmití á Usted en nota de 30 de Enero último, con motivo de que el Dr. G. S. Smith, vecino del rancho del Ebanito, del Condado de Cameron, Estado de Texas, estaba construyendo una cerca en el Banco del Surrón, territorio mexicano, con el apoyo de fuerza armada de los Estados Unidos y del Estado de Texas.

No teniendo en mi poder más datos oficiales sobre este asunto, que los que comuniqué á Usted en mi nota citada, no puedo apreciar en todo su valer las explicaciones dadas por las autoridades del Estado de Texas, sobre este asunto; pero ya trasmito la

nota de Usted y los documentos á ella anexos, al Gobierno mexicano, con objeto de que estudiado este negocio debidamente, se promueva lo que corresponda.

Creo, sin embargo, de mi deber hacer algunas observaciones, en vista del contenido de la nota de Usted y de los documentos á ella anexos.

Consiste la primera, en que de los informes de la autoridades del Estado de Texas, aparece que el Banco del Surrón, es territorio mexicano, y que el Dr. Smith ha construido su cerca en el expresado Banco.

Aparece tambien justificado de los informes expresados, que despues de haber recibido el Dr. Smith, quejas pacíficas de ciudadanos mexicanos, porque intentaba construir su cerca en territorio que se juzgaba de México, llevó fuerza armada de los Estados Unidos y del Estado de Texas, para construir dicha cerca, y aunque se dice que era con objeto de que lo protegiera, esta circunstancia no modifica el hecho de haberse servido de fuerza armada, para la construcción de una obra, en un terreno que, por lo ménos, se consideraba en disputa.

Aun cuando el Banco del Surrón esté habitado por bandidos de ambos lados, y que Leonides Salas, uno de los individuos que firmaron la queja, sea fugitivo de la justicia de Texas, por habérsele acusado de homicidio, estos incidentes no modifican la sustancia de las cosas, si como aparece, el Banco del Surrón es territorio mexicano y el Doctor Smith ha construido su cerca en el Banco del Surrón.

No creo deber terminar esta nota, sin manifestar á Usted que, no considero fundado el quinto considerando del informe que el Agrimensor John Hord, del Condado de Cameron, Texas, dirigió al Capitan Brooks, el 4 del actual, en que con objeto de justificar el derecho del Dr. Smith al terreno expresado, dice que no hay nada en los tratados de límites entre México y los Estados Unidos que defina la jurisdicción territorial sobre terrenos que acrecen gradualmente en cualquiera lado del rio, frente de un banco.—Al paso que reconoce que el acrecimiento por avulsión, que en algunos casos constituye un banco, continúa perteneciendo al país de dónde se ha separado, y que la acreción gradual ó por corrosión, pertenece al lado que la recibe, asegura que la acrecion en frente de un banco, es un caso que no está previsto por la ley, y que el terreno que acreciera en esa forma debe considerarse como *terra incognita*.

A mi juicio, esta teoría, es insostenible, porque la acreción tiene necesariamente que ser ó violenta por avulsión, ó paulatina

por corrosión y ambos casos están previstos en los artículos I y II del tratado entre México y los Estados-Unidos de 12 de Noviembre de 1884.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. JAMES G. BLAINE

&c. &c. &c.

[Translation.]

LEGATION OF MEXICO,
Washington, March 22d, 1890.

Mr. SECRETARY:

I have had the honor to receive your note of yesterday, together with its enclosures, relating to the complaint made by certain citizens of Matamoros, Mexico, (which I transmitted to you as an enclosure to my note of the 30th of January last), that Dr. G. S. Smith, a resident of the ranch called "Ebanito," in Cameron County, Texas, was building a fence on the "Banco del Surron," in Mexican territory, with the assistance of an armed force belonging to the United States and the State of Texas.

As I have no official data in my possession except those which I communicated to you in my aforesaid note, I am unable fully to appreciate the explanations furnished by the authorities of the State of Texas concerning this matter; but I shall, without delay, transmit your note and its enclosures to the Mexican Government, to the end that it may carefully examine this case, and take such steps as may be suitable.

I deem it my duty, however, to make a few observations, in view of the contents of your note and its enclosures.

In the first place, it appears from the reports furnished by the authorities of the State of Texas, that the "Banco del Surron" is Mexican territory, and that Dr. Smith has built a fence on the aforesaid Banco.

It also appears from the aforesaid reports that after Dr. Smith had received peaceful complaints from Mexican citizens because he was about to build his fence in territory that was considered to belong to Mexico, he took several armed U. S. soldiers, together with others belonging to the State of Texas, to build the said fence, and although it is stated that this was done in order that these soldiers might afford him protection, that circumstance does not alter the fact of his having made use of an armed force

for the construction of a work on land which was at least considered as being in dispute.

Even though the "Banco del Surron" is inhabited by outlaws from both sides, and though Leonides Salas, one of the persons who signed the complaint, is wanted by the authorities of Texas on a charge of having committed a murder, these circumstances do not affect the merits of the case, if, as appears to be the fact, the "Banco del Surron" is in Mexican territory, and Dr. Smith has built his fence on that Banco.

I do not think it proper for me to close this note without remarking that I do not consider well founded the fifth reason contained in the report addressed to Capt. Brooks, on the 4th instant, by Surveyor John S. Hord, of Cameron County, Texas, in which, in order to show Dr. Smith's right to the land in question, he says that there is nothing in the boundary treaties between Mexico and the United States that defines the territorial jurisdiction over lands formed by gradual accretion on either side of a river, opposite to a banco. While he admits that accretion by avulsion, which in some cases forms a banco, continues to belong to the country from which it was removed, and that gradual accretion, or accretion by erosion, belongs to the side which receives it, he asserts that accretion opposite to a banco is a case not provided for by law, and that land so formed is to be regarded as *terra incognita*.

This theory is, in my opinion, unsustainable, because accretion must necessarily be either violent by avulsion, or gradual by erosion, and both these cases are provided for by articles I and II of the treaty of November 12th, 1884, between Mexico and the United States.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. JAMES G. BLAINE, *etc.*, *etc.*

Mr. Blaine to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, April 9, 1890.

Señor Don M. ROMERO,

etc., *etc.* *etc.*

SIR:

I have the honor to acknowledge the receipt of your note of the 22d ultimo, in further reference to the complaint that Dr. G. S.

Smith of Cameron County, Texas, was engaged in building a fence on Mexican territory, as set forth.

I have apprised the Governor of Texas of your views.

Accept, etc.

JAMES G. BLAINE.

Señor Romero to Mr. Blaine.

LEGACION MEXICANA,
WASHINGTON, D. C., *Abril 24 de 1890.*

Señor SECRETARIO:

En la nota que tuve la honra de dirigir á Usted el 22 de Marzo próximo pasado, le comuniqué que trasmitía á mi Gobierno la que Usted se sirvió dirigirme el dia anterior, con referencia á la queja presentada por varios vecinos de Matamoros, México, contra el Doctor G. S. Smith, vecino del rancho del Ebanito, del Condado de Cameron, Texas, por haber construido con auxilio de fuerza armada, una cerca en el Banco del Zurrón, que se considera territorio mexicano.

Tengo la honra de informar á Ud. ahora, que he recibido instrucciones sobre este asunto, del Señor Mariscal, Secretario de Relaciones Exteriores de los Estados Unidos Mexicanos, fechadas el 9 del corriente, en las cuales me recomienda haga yo presente á Usted, que no puede llamarse apoyo *moral*, segun lo calificó Usted, el de la fuerza armada que empleó el Doctor Smith, para construir su cerca, y que tampoco pueden considerarse como una *agresión*, como Usted se sirvió calificarlas, las observaciones hechas al Doctor Smith, por los vecinos de Matamoros.

El Gobierno de México considera que sería conveniente para poder resolver esta cuestión de una manera fundada y con pleno conocimiento de causa, que cada uno de los dos Gobiernos interesados nombre por su parte un ingeniero competente que, estudiando el terreno en cuestión, determinen si él pertenece á México ó á los Estados-Unidos, ó que si ellos no pudieren ponerse de acuerdo, remitan su informe á sus Gobiernos, para que éstos decidan lo conveniente.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. JAMES G. BLAINE,
 &c. &c. &c.

[Translation.]

LEGATION OF MEXICO,
WASHINGTON, *April 24th, 1890.*

Mr. SECRETARY:

In the note which I had the honor to address to you on the 22d ultimo, I informed you that I would transmit to my Government the one that you had been pleased to address me on the day preceding, relative to the complaint presented by several residents of Matamoros, Mexico, against Dr. G. S. Smith, a resident of the ranch called Ebanito, in Cameron County, Texas, on account of his having built, with the assistance of an armed force, a fence on the "Banco del Zurron," which is considered as Mexican territory.

I now have the honor to inform you that I have received instructions on this subject from Mr. Mariscal, Secretary of Foreign Relations of the United States of Mexico, bearing date of the 9th instant, in which he directs me to state to you that the support of the armed force employed by Dr. Smith in the construction of his fence, cannot be called *moral* support, as you term it, and that the observations made to Dr. Smith by the residents of Matamoros cannot be called an *aggression*, as you are pleased to designate it.

The Government of Mexico thinks that it would be advisable, in order that this question might be settled with a full knowledge of the facts, for each of the two interested Governments to appoint a competent engineer to make a survey of the territory in question, and determine whether it belongs to Mexico or the United States, or, if they cannot agree, to send their reports to their Governments, in order that *they* may reach a suitable decision.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. JAMES G. BLAINE, *etc., etc.*

Mr. Blaine to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *May 24, 1890.*

Señor Don MATIAS ROMERO,
etc. etc. etc.

SIR:

Referring to your note of the 22d May 1889, relative to the convention between the United States and Mexico, providing for the institution of an International Commission, to determine certain

questions arising under the Convention of November 12, 1884, which first named Convention was signed at Washington, March 1, 1889—I have the honor to inform you that on the 7th instant, the Senate of the United States advised the ratification of the said convention of 1889, with the following amendment, *viz*:

“At the end of Article 9, add the following:—And shall be in force from the date of the exchange of ratification for a period of five years.”

It is presumed that your Government will find no occasion under the circumstances, to withhold the action necessary to the full and final ratification desired.

Accept, etc.

JAMES G. BLAINE.

Mr. Blaine to Mr. Ryan.

No. 252.

DEPARTMENT OF STATE,
WASHINGTON, *May 24, 1890.*

THOMAS RYAN, Esq^r.

etc. etc. etc.

SIR.

I have to state that the Senate has advised the ratification of the convention between the United States and Mexico, signed March 1, 1889, with the amendment to Art. 9, set forth in the enclosed copy of a note to the Minister of Mexico, here, of this date, which I transmit for the further information of your legation.

I am, etc.

JAMES G. BLAINE.

Encl. To M. Romero, May 24, 1890.^a

Señor Romero to Mr. Blaine.

LEGACION MEXICANA,
WASHINGTON, *D. C. Mayo 26 de 1890.*

Señor SECRETARIO:

He tenido la honra de recibir la nota de Ud, de 24 del corriente, en la que se sirve informarme que el Senado de los Estados Unidos aconsejó, en su sesion del dia 7, la ratificacion de la Convencion firmada en esta Ciudad el 1º de Marzo de 1889, entre México y los Estados Unidos, con objeto de establecer una Comision Inter-cional de Límites que conozca de las cuestiones que puedan presentarse con motivo de la Convencion de 12 de Noviembre de 1884, limitando á cinco años contados desde la fecha del cange de

[^a For this enclosure see *supra*, p. 824.—Agent's note.]

ratificaciones, el periodo durante el cual deberá estar en vigor la referida Convencion de 1º de Marzo de 1889.

Tengo la honra de decir á Ud, en respuesta, que ya comunico al Gobierno de México la determinacion del Senado de los Estados Unidos, y que oportunamente participaré á Ud. la resolucion del Gobierno Mexicano respecto de este asunto.

Sírvase Ud aceptar, Señor Secretario, las seguridades de mi mas distinguida consideracion.

M. ROMERO.

Hon. JAMES G. BLAINE,
 &c. &c. &c.

[Translation.]

MEXICAN LEGATION,
 WASHINGTON, D. C. May 26, 1890.

Mr. SECRETARY:

I had the honor to receive your note of the 24th instant in which you were pleased to inform me that the Senate of the United States in its Session of the 7th consented to the ratification of the Convention signed in this city March 1, 1889, between Mexico and the United States for the purpose of establishing an International Boundary Commission to take cognizance of the questions that may present themselves in carrying out the Convention of November 12, 1884, limiting to five years counted from the date of ratifications the period of time during which the said Convention of March 1, 1889, is to remain in effect.

I have the honor to say to you in reply that I have already communicated to the Government of Mexico the decision of the Senate of the United States and that in due time I will apprise you of the action of the Mexican Government on the subject.

Be pleased to accept, Mr. Secretary the assurances of my most distinguished consideration.

M. ROMERO.

Hon. JAMES G. BLAINE,
etc. etc. etc.

Mr. Blaine to Señor Romero.

DEPARTMENT OF STATE,
 WASHINGTON, May 26, 1890.

Señor Don MATIAS ROMERO,
etc. etc. etc.

Sir:

I have the honor to acknowledge the receipt of your note of the 24th ultimo, whereby you convey to me the reply of the Mexican

Secretary of Foreign Relations to the note I addressed to you on the 21st of March preceding, relative to the complaint made by residents of Matamoros that Dr. E. G. Smith, owner of the Ebanito Ranch in Cameron County, Texas, had built, with the assistance of an armed force a fence on a part of the Banco del Zurron, which is claimed by them to be Mexican territory.

It is observed that Senor Mariscal's reply is silent as to the question of fact, and makes no controversy as to the evidence, which was collected by the authorities of Texas, and communicated to your government, to show that the fence in question correctly marks the owners boundary line at the point now in dispute, as it has stood unquestioned for years, as it has been adjudicated by courts, and according to the principles laid down in the Convention of November 12, 1884.

The verbal criticisms of Mr. Mariscal do not touch the essential question of jurisdiction. As to this latter, I may assume that the Government of Mexico joins issue on the fact, from the invitation put forth to settle the question on the reports of two competent engineers, to be severally appointed by each government to survey the territory in question.

Such a course, while doubtless affording an opportunity for the collection of additional information upon which to rest a concurrent opinion, would not afford the authoritative determination of the question arising under the Convention of November 12, 1884. The subsequent Convention signed March 1, 1889, which provides an International Commission to adjudicate this class of questions now only awaits the acceptance by Mexico of the Senate's amendment and the exchange of ratifications to become effective,—as I have had the honor to state in my note of the 24th instant.

It would seem advisable, therefore, to leave the examination of the facts to the competent Commission, which will doubtless soon be organized, for a determination of the territorial question raised. The individual rights of ownership, of course, form a separable issue, to be determined, the case arising, by the courts of the country having jurisdiction of the soil.

Accept, etc.

JAMES G. BLAINE.

Señor Romero to Mr. Blaine.

LEGACIÓN MEXICANA,

WASHINGTON, *Noviembre 27 de 1890.*

Señor SECRETARIO:

Tengo la honra de informar á Usted, que he recibido el ejemplar ratificado por el Gobierno mexicano, de la Convención firmada en

esta ciudad el 1º de Marzo de 1889 entre los Estados Unidos Mexicanos y los Estados Unidos de América, para establecer una Comisión Internacional de límites, que conozca de las cuestiones que se susciten con motivo de los cambios que tienen lugar en los lechos de los rios Bravo del Norte y Colorado, en la parte que sirven de línea divisoria entre ambos países.

He recibido igualmente los Plenos Poderes de mi Gobierno, fechados en la ciudad de México, el 31 de Octubre, próximo pasado, para proceder al canje de las ratificaciones de dicha Convención, con el Plenipotenciario que el Gobierno de los Estados-Unidos tenga á bien nombrar con este objeto.

En esta virtud, procederé á hacer el canje expresado, tan luego como ese Departamento se sirva comunicarme que por su parte está dispuesto á verificarlo.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. JAMES G. BLAINE,
etc. etc. etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, November 27, 1890.

Mr. SECRETARY:

I have the honor to inform you, that I have received the copy ratified by the Mexican Government, of the Convention signed in this city, on March 1st of 1889 between the United Mexican States and the United States of America, to establish an International Commission of boundaries, that may know (try?) the questions which may arise owing to the changes which have taken place in the beds of the rivers Bravo del Norte and Colorado, in the part which serves as a division line between both countries.

I have also received the Full Powers of my Government, dated in the city of Mexico, October 31 past, to proceed to the exchange of the ratifications of said Convention, with the Plenipotentiary that the Government of the United States may think proper to appoint for this object.

In this power, I will proceed to make the exchange mentioned, as soon as your Department may be pleased to communicate to me that it is ready on its part to accomplish it.

Be pleased to accept, Mr. Secretary, the assurances of my very distinguished consideration.

M. ROMERO.

Hon. JAMES G. BLAINE,
etc., etc., etc.

Mr. Blaine to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *December 5, 1890.*

Señor Don MATIAS ROMERO,
etc. etc. etc.

SIR: I have the honor to acknowledge the receipt of your note of the 27th ultimo, and to state that if you will kindly call at the Department on Monday next, the 8th instant, at 12 o'clock noon, I shall be happy to effect with you the exchange of the ratifications of the convention between the United States and Mexico, signed at Washington March 1, 1889, providing for the institution of an International Commission to determine questions between the two Governments concerned, arising under the Convention of November 12, 1884.

Accept, etc.

JAMES G. BLAINE.

Señor Romero to Mr. Blaine.

LEGACIÓN MEXICANA,
WASHINGTON, *Diciembre 19 de 1890.*

Señor SECRETARIO:

Hasta hoy he recibido la nota de Usted, de 5 del corriente, en que acusó Usted recibo de la mia de 27 de Noviembre anterior y me citó para concurrir al Departamento de Estado el 8 del corriente, á las doce del dia, con objeto de hacer el canje de ratificaciones de la Convención firmada en esta ciudad el 1 de Marzo de 1889, entre México y los Estados Unidos, para establecer una Comisión internacional de límites que decida las cuestiones que se susciten entre los dos Gobiernos, conforme á la Convención de 12 de Noviembre de 1884.

La nota de Usted fué remitida por la Administración de Correos de esta capital, á la ciudad de México el 5 del corriente, segun aparece de la cubierta que le acompaño, y de allí me fué devuelta por el Administrador local de correos, el dia 13, con la carta de que adjunto cópia.

Esta circunstancia explica por qué motivo no concurrí á la cita que se sirvió Usted darme para el 8 del corriente, y me pone en el caso de suplicar á Usted se sirva fijarme otro dia para que concurre yo á ese Departamento, con el objeto de hacer el canje expresado.

Creo oportuno sugerir á Usted la conveniencia de recomendar á la Administración de correos de esta ciudad, mayor cuidado en el envío de la correspondencia oficial, pues pudiere suceder que en alguna ocasión, otro error como el presente produjera resultados desagradables.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

anexos:^a

Una cubierta.

Carta del Administrador local de correos de México.

Hon. JAMES G. BLAINE,

etc., etc., etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *Dec. 19, 1890.*

Mr. SECRETARY,

I received only today your note of the 5th inst. in which you acknowledged the receipt of my note of the preceding 27th of November and invited me to the Department of State at noon on the 8th instant, for the purpose of exchanging the ratifications of the convention signed in this city on the 1st of March, 1889, between Mexico and the United States, for establishing an international boundary commission to decide the questions which may arise between the two governments, in conformity to the convention of November 12th, 1884.

Your note was forwarded by the postoffice in this city to the City of Mexico on the 5th instant, as appears by the envelope which enclosed it, and thence was returned to me by the local postmaster on the 13th with a letter, a copy of which I send herewith.

This circumstance explains why I did not repair to the summons you were pleased to give me for the 8th instant, and compels me to request that you will be kind enough to appoint another day that I may attend at the Department for the purpose of effecting the said exchange.

I think it well to suggest to you the propriety of recommending to the Postoffice of this city, greater care in forwarding official correspondence as it might happen that another similar mistake might on some occasion produce disagreeable results.

^a [Inclosures omitted.—Agent's note.]

Accept, Mr. Secretary of State, the assurances of my most distinguished consideration.

M. ROMERO.

Enclosures.^a

One envelope.

Letter of the local Postmaster of Mexico.

Hon. JAMES G. BLAINE,

&c, &c, &c.

Mr. Blaine to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *December 23, 1890.*

Señor Don MATIAS ROMERO,

etc. etc. etc.

SIR:

I have the honor to acknowledge the receipt of your note of the 19th instant, in explanation of your non-appearance at the Department on the 8th instant to effect the exchange of ratifications of the convention of March 1, 1889, concerning the establishment of an International Boundary Commission to determine questions arising under the Convention of November 12, 1884, between the two Governments. It appears that the Post-Office authorities accidentally sent my note of the 5th instant, to the City of Mexico, and that it has just been returned to you.

I have caused a letter to be written to the city postmaster upon the subject, as you suggest, asking that greater care be exercised in the future. If, therefore, you will call at the Department on Wednesday next, the 24th instant, a few moments before noon, I will be glad to effect with you the necessary exchange of ratifications.

Regretting the delay which has supervened I beg to offer you, Sir, the renewed assurance, etc.

JAMES G. BLAINE.

Señor Romero to Mr. Blaine.

LEGACIÓN MEXICANA,
Washington, Diciembre 23 de 1890.

Señor SECRETARIO:

He tenido la honra de recibir la nota de Usted de hoy en que contesta la mia de 19 del actual, y se sirve Usted decirme que

[^a Inclosures omitted.—Agent's note.]

mañana, miércoles 24 del corriente, poco antes del medio día, estará Usted dispuesto á verificar el canje de las ratificaciones de la Convención firmada el 1 de Marzo de 1889, entre México y los Estados Unidos, para establecer una Comisión internacional de límites.

Tengo la honra de decir á Usted en respuesta, que concurriré mañana al Departamento, á la hora que Usted se sirve citarme, con el objeto indicado.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi muy distinguida consideración.

M. ROMERO.

Hon. JAMES G. BLAINE,
etc., etc., etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *December 23, 1890.*

Mr. SECRETARY:

I have had the honor to receive your note of to-day in which you reply to mine of the 19th of the current month, and are pleased to tell me that to-morrow, Wednesday the 24th of the current month, a little before mid-day, you will be ready to carry out the exchange of the ratifications of the Convention signed March 1, 1889, between Mexico and the United States, to establish an International Commission of boundaries.

I have the honor to say to you in reply, that I will assist to-morrow at the Department, at the hour that you are pleased to appoint, with the object indicated.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. JAMES G. BLAINE,
etc., etc., etc.

Señor Romero to Mr. Blaine.

LEGACIÓN MEXICANA,
WASHINGTON, *Febrero 23 de 1891.*

Señor SECRETARIO:

Tengo la honra de informar á Usted que el Gobierno de México me comunica que se ha nombrado el personal de la Comisión Internacional de Límites, que debe funcionar en virtud de las estipulaciones de la Convención firmada en esta ciudad el 1º de Marzo de 1889, entre México y los Estados Unidos, para poner en ejecu-

cion las estipulaciones de la Convencion de 12 de Noviembre de 1884.

Aprovecho esta ocasion para reiterar á Usted, Señor Secretario, las seguridades de mi mas distinguida consideracion.

M. ROMERO.

Hon. JAMES G. BLAINE,
etc., etc., etc.

[Translation.]

THE MEXICAN LEGATION,
WASHINGTON, *Feb'y. 23, 1891.*

Mr. SECRETARY:

I have the honor to inform you that the Government of Mexico acquaints me that the members of the International Boundary Commission have been appointed, to officiate by virtue of the stipulations of the Convention signed in this city on March 1st, 1889, between Mexico and the United States, in order to put into execution the stipulations of the convention of November 12, 1884.

I avail myself of this occasion to renew, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. JAMES G. BLAINE,
etc. etc. etc.

Mr. Blaine to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *February 28, 1891.*

Señor DON MATIAS ROMERO,
etc. etc. etc.

SIR:

I have the honor to acknowledge the receipt of your note of 23d instant, stating that the members of the International Boundary Commission, on the part of Mexico, have been "appointed to officiate by virtue of the stipulations of the convention signed in this city on March 1, 1889, between the United States and Mexico, in order to put into execution the stipulations of the convention of November 12, 1884."

The subject of your note will receive early consideration, on the part of this government.

Accept, etc.

JAMES G. BLAINE.

Señor Romero to Mr. Wharton.

LEGACIÓN MEXICANA,
WASHINGTON, *Mayo 30 de 1891.*

Señor SECRETARIO INTERINO:

Tengo la honra de manifestar á Usted, refiriéndome á la nota que dirigí á Mr Blaine el 23 de Febrero último, que considerando el Gobierno de México de interés para ambos países comience á funcionar tan pronto como sea posible, la Comision Internacional de Límites creada por la Convencion de 1° de Marzo de 1889, no duda que el Gobierno de los Estados Unidos hará los nombramientos que le corresponden; y que si esto no le fuese posible, porque el Congreso no haya autorizado el gasto necesario en el presupuesto para el presente año fiscal ó para el próximo, gestionará la autorizacion de ese gasto, con el fin de lograr que se organice cuanto antes la Comision Internacional de Límites y de que pueda desempeñar las funciones que le encomendó la Convención expresada.

Sírvase Usted aceptar, Señor Secretario interino, las seguridades de mi distinguida consideración.

M. ROMERO.

HON. WILLIAM F. WHARTON,
etc. etc. etc.

[Translation.]

LEGATION OF MEXICO,
WASHINGTON, *May 30th, 1891.*

Mr. ACTING SECRETARY:

I have the honor to inform you, referring to the note which I addressed to Mr. Blaine on the 23d of February last, that the Government of Mexico, considering it a matter of interest that the International Boundary Commission created by the Convention of March 1st, 1889, should begin the discharge of its duties as speedily as possible, does not doubt that the United States Government will make the proper appointments; and that, if this is impossible for the reason that Congress has not authorized the necessary expenditure during the present fiscal year or the next, it will endeavor to secure such authorization, to the end that the International Boundary Commission may be organized with as little delay as may be, and that it may perform the duties entrusted to it by the aforesaid Convention.

Be pleased to accept, Mr. Acting Secretary, the assurances of my distinguished consideration.

M. ROMERO.

HON. WILLIAM F. WHARTON, *etc. etc.*

Mr. Wharton to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *June 17, 1891.*

Sr. DON M. ROMERO,
etc. etc. etc

SIR:

The Department has received your note of the 30th ultimo, and I have the honor to say in reply that, recognizing the importance of the early appointment of the officers mentioned in the 2d article of the convention of March 1, 1889,—“to facilitate the carrying out of the principles of the treaty of November 12, 1884, and to avoid the difficulties occasioned by the changes in the beds of the Rio Grande and Colorado Rivers, the subject of your note will be brought to the attention of the President and of Congress at the earliest convenient date.

Accept, etc.

WILLIAM F. WHARTON,
Acting Secretary.

Señor Romero to Mr. Blaine.

LEGACIÓN MEXICANA,
WASHINGTON, *Noviembre 3 de 1891.*

Señor SECRETARIO:

Tengo la honra de informar á Usted que he recibido una comunicación del Señor Mariscal, Secretario de Relaciones Exteriores de los Estados Unidos Mexicanos fechada en la Ciudad de México el 23 de Octubre próximo pasado, en la que encarga recomiende yo con la mayor instancia al Gobierno de los Estados Unidos de América, dicte las providencias que estime convenientes á efecto de que á la mayor brevedad posible nombre el personal que le corresponde en la Comisión internacional que debe dirimir las cuestiones pendientes sobre límites en la parte en que los Rios Bravo del Norte y Colorado forman la línea divisoria entre los dos países, con arreglo á la Convención de 1 de Marzo de 1889, con objeto de evitar las dificultades que constantemente se presentan por la falta de ejecución de sus estipulaciones.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi mas distinguida consideración.

M. ROMERO.

Hon. JAMES G. BLAINE,
etc., etc., etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *November 3, 1891.*

Mr. SECRETARY:

I have the honor to inform you that I have received a letter dated City of Mexico October 23d last, from Señor Mariscal Minister of Foreign Relations of the United States of Mexico, in which he charges me to recommend with the greatest earnestness to the Government of the United States of America to direct the measures it may think proper for the purpose of appointing in the shortest time possible the members on its side of the international commission which has to adjust the questions pending, concerning boundaries in that part where the Rivers Bravo del Norte and Colorado form the dividing line between the two countries, according to the convention of March 1st, 1889, for the purpose of avoiding the difficulties which are constantly presented by the want of execution of its stipulations.

Accept, Mr. Secretary, etc. etc.

M. ROMERO.

Mr. Blaine to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *November 6, 1891.*

Señor DON M. ROMERO,
etc. etc. etc.

SIR:

I have the honor to acknowledge the receipt of your note of 3d instant, stating that you have received a letter from the Minister of State of Mexico, M. Mariscal, in which he charges you to "recommend with the greatest earnestness" to this Government, the appointment of the members on its part, of the International Boundary Commission, provided for by the Convention of March 1, 1889, which was entered into, by reasons of questions growing out of the changes in the beds of the Rio Grande and Colorado Rivers.

As stated in the note addressed to you on the 17th June last, the subject of your note will be brought to the attention of the President and of Congress, at the earliest convenient date, and you can so assure the distinguished Minister of Foreign Affairs of Mexico.

Accept, etc.,

JAMES G. BLAINE.

Mr. Gresham to Mr. Gray.

No. 40.]

DEPARTMENT OF STATE,

WASHINGTON, *June 15, 1893.*

ISAAC P. GRAY, Esq., etc.

SIR: I enclose herewith a copy of a memorial of J. M. Lopez and others, in reference to lands first formed on this side of the Rio Grande and subsequently by a change in the stream, left on the other side; and of other communications and documents named below.

You will note that the circumstances under which the land in question was first formed on the north side, and afterward by a sudden change in the bed of the river left on the south side of the Rio Grande River, appear to leave it still under the jurisdiction of this country and subject to the same ownership as before.

Upon the statement made by the claimants, the case seems to be one where they should be accorded the possession and the use of the land, unless by the commission to be organized under the treaty of March 1, 1889, they shall be held not entitled thereto.

You will unofficially bring the matter to the attention of the Mexican Government, presenting the case as the claimants have presented it to this Department, calling attention to the treaty provisions and requesting that Government to notify the local authorities of the rights of the American claimants.

This is not a case where the Mexican courts can be appealed to, for the very basis of the claim is that the land is not in Mexican jurisdiction.

I am, &c.,

W. Q. GRESHAM.

Enclosures: (1) Memorial of Mr. Lopez, March 31, 1893; (2) To Mr. Lopez, May 15, 1893;^a (3) From Mr. Lopez June 1, 1893; (4) Conventions with Mexico, Nov 12, 1884, Mar. 1, 1889.^b

[Inclosure 1.]

[Memorial of José María López of March 31, 1893.]

José María López, Felix Salinas and Crispino Gonzales, of Rio Grande City, Starr Co., Texas, write to the Secretary of State, in relation to the following matter: They are owners of lot (section?) no. 80 in the aforesaid county. Their land lies opposite to Camargo, in the State of Tamaulipas, Texas; in the year 1865 their land began to receive additions from the action of the Rio Grande

^a [Inclosure omitted as immaterial. Certified copy held at disposition of Court.—Agent's note.]

^b [These inclosures omitted. See Supre, pages 67, 72, for text of these treaties as ratified and proclaimed by two Governments.—Agent's note.]

river, on which it is situated; the additions gradually formed, at length amounted to 1,900 acres, and an equal amount was added to lot no. 79, the property of the Davis family, the members of which are related to the writers of this letter. Lot no. 79 was surveyed at the expense of the writers a long time ago, and the demarkations made must still exist. No Mexican citizen, and no Mexican officer ever raised the slightest objection to their owning and cultivating the land, or to their having it surveyed. They now have a large amount of timber (trees) standing on the land, which is very valuable.

The action of the river at length placed this land, with its improvements, on the Mexican side of the river, and, as the writers were evidently its owners, they continued to cultivate it as before. Owing, however, to the disturbance created on the frontier by Catarino Garza, the Mexican authorities became excessively strict, and the action of the military took the place of that of the civil authorities in Tamaulipas. All the inhabitants were thus terrified, as were all peaceable persons who entered the territory of Mexico, whether they were natives of that country or not. Daniel Tanguma, who was sent by Mr. Lopez (José Maria) to do some work on the land in question, was told by a Mexican officer named Luis Izaguirre that he had no business there, and that he (Izaguirre) and his father (who is now President of the Municipality of Camargo) had applied to the Mexican authorities to have the land declared their property.

The case was then referred to the American Consul at Matamoros, whose reply the writers enclose. They now claim that not only has a portion of their standing timber been destroyed, but that their rights as American citizens have been wantonly disregarded, since the land aforesaid has been occupied and used without their full consent. The person who is responsible for these acts is Don Luis Izaguirre, a resident of Camargo, Tamaulipas, and a military officer of the Mexican Government. The fact of Mr. Izaguirre's responsibility for the acts in question is well known in both Rio Grande City and in Camargo, and is known to the Mexican Consul in the first named place. The acts committed in defiance of the rights of the writers have been permitted by the authorities of Camargo, and by the Government of the State of Tamaulipas.

It is now currently reported that the Mexican authorities are about to assign the land in question to Don Luis Izaguirre, as his property. It is soon to be surveyed by a Mexican surveyor, and

the writers have every reason to fear that they are about to lose it, together with all the improvements that they have made on it.

They therefore, as American citizens, appeal to the Secretary of State for protection, and, for the losses which they have already suffered through the outrages committed or authorized by the Mexican authorities, on lot (section?) no. 80 (which, until recently, has been cultivated by them) they ask for an immediate indemnity of ten thousand dollars. They also ask that the land be placed under their control by the Mexican authorities, and that no more of their property be removed from it. Further, that the said authorities be notified that they must not repeat their outrages in future.

[A certificate signed by Saml. Stewart, Justice of the Peace and ex-officio Notary Public, is subjoined to the communication of Messrs. López, Salinas and Gonzales. The communication is dated March 31st 1893, but was not received at the Dep't of State until May 5th, '93.]

[Inclosure 2.]

Mr. López to Mr. Gresham.

RIO GRANDE CITY, STARR COUNTY, TEXAS,

June 1st, 1893.

HON. WALTER Q. GRESHAM,

Secretary of State, Washington, D. C.

SIR: The land to which we alluded in the written complaint of March 31st, became a part of Porcion No. 80 by natural and gradual erosion and deposit of alluvium since 1865, in the form expressed in Art. I of the Treaty of Nov. 12th, 1884 between the U. S. and Mexico, as we have fully explained it to said land we are heirs. Since last September this piece of land was cut off by the Rio Grande to the Mexican side this carrying away all of our improvements in the land; this was caused by the abandonment of the existing river bed opening a new one. The Military Commanding Officer of Camargo, Tamaulipas, Luis Izaguirre, with authority and consent of the Mexican authorities, still continues to use that land, all of its improvements planting, and grazing the Mexican cavalry horses, and, by his orders and that of the Mexican authorities it has been surveyed by the civil Engineer Francisco A. Salido.

The Mexican authorities from Camargo, Tamaulipas, have not respected our properties neither they pay any attention to the Treaty nor to the complaint of any person. They do whatever they please leaning to their strength and power, for that

reason we, being American citizens appeal before you asking for immediate protection, and ratifying our written complaint of March 31st.

We are prohibited from planting our own property, where all of our improvements are constantly being destroyed, causing to us in a great extent, a great evil.

Hoping that you will kindly lay this matter before the Mexican Government, we are,

Very respectfully

JOSE M. LOPEZ.

Mr. Gray to Mr. Gresham.

No. 72.]

LEGATION OF THE UNITED STATES,

MEXICO, *July 8, 1893.*

To the Honorable WALTER Q. GRESHAM, &c.:

Washington, D. C.

SIR: Pursuant to your Instructions No. 40, of the 15th ultimo, in reference to lands, owned by Señor J. M. López and other Americans, along the Rio Grande, affected by changes in the course of the river, I addressed a communication, on the 5th instant, to the Foreign Office, forwarding a copy of the Memorial of the complainants, citing the provisions of the Treaties of November 12, 1884, and of March 1, 1889, bearing on the case, and requesting immediate attention to the matter.

I have the honor to enclose copy of my note to the Foreign Office.

I am Sir very respectfully,

Your obedient servant,

ISAAC P. GRAY.

Enclosure: 1. Mr. Gray to Mr. Mariscal, July 5, 1893.

[Inclosure 1.]

Mr. Gray to Señor Mariscal.

LEGATION OF THE UNITED STATES,

MEXICO, *July 5, 1893.*

Hon. IGNACIO MARISCAL, ETC.

MY DEAR MR. MARISCAL: Under specific instructions received from my Government, I have the honor thus unofficially to invite your attention to the complaint of certain American citizens owning lands along the Rio Grande, opposite the town of Camargo, Tamaulipas, which, it is claimed, were first formed on the American side of the river, and subsequently, by a change in the stream, were left on the Mexican side.

By the enclosed copy of a Memorial from Senor J. M. Lopez, and others, you will note that the circumstances under which the land in question, first formed on the North side of the river and afterwards, by a sudden change in the bed of the stream, left on the South side of the Rio Grande, appear still to leave the land within the jurisdiction of the United States of America and the property of the claimants.

Allow me to refer to certain Treaty provisions bearing on this case:

The Boundary Line Convention of November 12, 1884, between the United States of America and Mexico, contains three Articles specially pertinent to the point, to wit:

“Article 1. The dividing line shall forever be that described in the aforesaid Treaty,” (the Treaty of Guadalupe Hidalgo of February 2, 1848) “and follow the center of the normal channel of the Rivers named” (Rio Grande and Rio Colorado) “notwithstanding any alterations in the banks or in the course of those rivers, provided that such alterations be effected by natural causes through the slow and gradual erosion and deposit of alluvium and not by the abandonment of any existing river bed and the opening of a new one.

“Article 2. Any other change wrought by the force of the current, whether by the cutting of a new bed, or when there is more than one channel by the deepening of another channel than that which marked the boundary at the time of the survey made under the aforesaid Treaty, shall produce no change in the dividing line as fixed by the surveys of the International Boundary Commission in 1884; but the line then fixed shall continue to follow the middle of the original channel bed, even though this should become wholly dry or be obstructed by deposits.

“Article 5. Rights of property in respect of lands which may have become separated through the creation of new channels, as defined in Article 2, hereof, shall not be affected thereby, but such lands shall continue to be under the jurisdiction of the country to which they previously belonged.”

Co-related to, and dependent upon, the Convention of November 12, 1884, some stipulations whereof I have just quoted, is the Boundary Line Agreement, of March 1st, 1889, between the United States of America and Mexico, designed to facilitate the carrying out of the principles contained in the first named Convention, by the creation of an International Boundary Commission to settle the difficulties occasioned by the changes in the bed of the Rio Grande.

Permit me most respectfully to call Your Excellency's attention to the following provisions of the last named Convention of 1889.

"Article 1. All differences or questions that may arise on that portion of the frontier between the United States of America and the United States of Mexico, where the Rio Grande and the Colorado rivers form the boundary line, whether such differences or questions grow out of alterations or changes in the bed of the aforesaid Rio Grande and that of the aforesaid Colorado River, or of works that may be constructed in said rivers, or of any other cause affecting the boundary line, shall be submitted for examination and decision to an International Boundary Commission which shall have exclusive jurisdiction in the case of said differences or questions."

"Article 4. When owing to natural causes, any change shall take place in the bed of the Rio Grande or in that of the Colorado River, in that portion thereof wherein those rivers form the boundary line between the two countries, which may affect the boundary line, notice of that fact shall be given by the proper local authorities on both sides to their respective Commissioners of the International Boundary Commission, on receiving which notice it shall be the duty of the said Commission to repair to the place where the change has taken place or the question has arisen, to make a personal examination of such change, to compare it with the bed of the river as it was before the change took place, as shown by the surveys, and to decide whether it has occurred through avulsion or erosion, for the effects of Article 1 and 2 of the Convention of November 12, 1884; having done this it shall make suitable annotations on the surveys of the boundary line."

In the judgment of my Government, this is not a case where the Mexican courts can be appealed to, as the very basis of the claim is that the land described is not in Mexican jurisdiction. Upon the statement of the American claimants, embodied in the enclosed Memorial, I respectfully submit that this is a case where full possession and use of the lands should be accorded to the claimants, unless a Commission organized under the Treaty of 1889, should decide that they are not entitled thereto.

Hoping that a matter so important as is this case may command your immediate attention, I remain with most profound respect.

Sincerely yours,

ISAAC P. GRAY.

Enclosures: Memorial, March 31, 1893; Memorial, June 1, 1893.^a

^a [Enclosures omitted. For copies thereof see *supra*, pp. 837, 839.—Agent's note.]

Mr. Gray to Mr. Gresham.

No. 110

LEGATION OF THE UNITED STATES.

MEXICO, *September 9, 1893.*

To the Honorable WALTER Q. GRESHAM,

&c &c Washington, D. C.

SIR:

On receipt of your cablegram, of the sixth instant, referring to the recent seizure, by Mexican officials, of a number of sheep and two American citizens, on American soil, bordering on the Rio Grande river near Reynosa, Tamaulipas, I addressed Mr. Mariscal, demanding immediate release of the American citizens and the return of the sheep, and presenting formal complaint for the wrongful invasion of American territory and violation of the rights of American citizens.

By appointment, I called upon Mr. Mariscal yesterday afternoon, and reiterated verbally the demand made of the Mexican Government in my note of the previous day.

I have the honor herewith to enclose the reply of the Mexican Government, containing three propositions for the settlement of the controversy, as substantially contained in my cablegram of today, which I beg to confirm as follows:

Your telegraphic instructions of September the sixth received; demand for release of Americans and return of sheep, with a formal complaint, made seventh. Mexican Government submits following proposition: Mexico forthwith release the two American prisoners and return sheep, the United States release the two Mexican guards and two Mexican citizens. Question of violation territory held in abeyance for settlement by International Boundary Commission provided for in Convention 1889. Both Governments to speedily appoint Commission.^a

I am Sir very respectfully,

Your obedient servant,

ISAAC P. GRAY.

Enclosures:

- 1 Mr. Gresham to Mr. Gray, Sept. 6 1893. (Telegram)
- 2 Mr. Gray to Mr. Mariscal, " 7 "
- 3 Mr. Mariscal to Mr. Gray, " 8 "
- 4 Translation of No. 3
- 5 Mr. Gray to Mr. Mariscal, Sept. 8 1893
- 6 Mr. Mariscal to Mr. Gray, " " "
- 7 Translation of No. 6
- 8 Mr. Gray to Mr. Mariscal, Sept. 9, 1893.

^a [Telegram paraphrased.—Agent's note.]

[Inclosure 1.]

Mr. Gresham to Mr. Gray.

[Telegram—Paraphrase.]

“ WASHINGTON, D. C., U. S. A.

September 6, 1893.

GRAY, Minister,

Mexico.

Officials of the Mexican Government seized number of sheep and two American citizens on American soil bordering on Rio Grande river near Reynosa.

Demand immediate release of men and return of sheep, and present formal complaint Government of Mexico.

(S'gd)

GRESHAM.”

[Inclosure 2.]

Mr. Gray to Mr. Mariscal.

LEGATION OF THE UNITED STATES.

MEXICO, September 7, 1893.

SIR:

Under telegraphic instructions from my Government I am directed to at once advise Your Excellency that Mexican officials forcibly seized two American citizens, and a number of sheep, on American soil, bordering on the Rio Grande river, near Reynosa, in Tamaulipas, and removed them within Mexican jurisdiction.

I am instructed to demand immediate release of the men and the return of the sheep, and to make formal complaint to the Mexican Government for this wrongful invasion of American territory and violation of the rights of American citizens.

I trust Your Excellency will kindly give this matter the prompt attention which its importance requires.

It gives me pleasure to renew to Your Excellency the assurance of my high consideration.

ISAAC P. GRAY.

[Inclosure 3.]

Señor Mariscal to Mr. Gray.

(Copy.)

“ El Secretario de Relaciones Exteriores.

B. L. M.

á Su Excelencia el Ministro de los Estados Unidos de América, y le suplica se sirva pasar á la Secretaría de Relaciones Exteriores á las dos de esta tarde para tratar de un asunto urgente.

Ignacio Mariscal reitera al Señor Gray las protestas de su consideracion muy distinguida.

México, Septiembre 8 de 1893.”

[Inclosure 4.]

[Translation.]

The Secretary of Foreign Affairs
salutes

His Excellency the Minister of the United States of America, and prays that he will call at the Department of Foreign Affairs at two o'clock this afternoon to arrange an important matter.

Ignacio Mariscal reiterates to Mr. Gray the protests of his very distinguished consideration.

Mexico, September 8, 1893.

[Inclosure 5.]

Mr. Gray to Señor Mariscal.

LEGATION OF THE UNITED STATES,
Mexico.

The Minister of the United States, Mr. Isaac P. Gray, acknowledging receipt of the request to call at 2 P. M., upon His Excellency Ignacio Mariscal, Minister for Foreign Affairs, begs to say that he will have the honor to do so at the hour named-today.

Mr. Gray has pleasure in renewing to His Excellency the assurances of his high consideration.

September 8, 1893.

[Inclosure 6.]

Señor Mariscal to Mr. Gray.

(Copy.)

SECRETARÍA DE RELACIONES EXTERIORES,
MEXICO, 8 de Septiembre de 1893.

Señor MINISTRO:

He recibido la nota de ayer en que me comunica Vuestra Excelencia que, por instrucciones de su Gobierno, tiene que poner en mi conocimiento que unos empleados mexicanos se apoderaron de dos ciudadanos de los Estados Unidos y unas cabezas de ganado en territorio americano, á orillas del Rio Grande, cerca de Reinos, y los pasaron al lado de México; y que el Gobierno de Vuestra Excelencia pide la inmediata libertad de los presos y la devolución del ganado, quejándose formalmente por esta invasion del territorio americano y por violacion de los derechos de ciudadanos de los Estados Unidos.

En contestacion debo manifestar á Vuestra Excelencia, que las noticias, oficialmente recibidas por esta Secretaría, de los hechos que motivan la queja de su Gobierno, son que el ganado de que se trata había pasado ilegalmente á territorio mexicano y que al verificarse su aprehension por celadores de la Sección aduanal de Reinos perteneciente á Tamaulipas, auxiliados de dos vecinos de nacionalidad mexicana, soldados del ejercito de los Estados Unidos invadieron el territorio mexicano impidiendo que se llevara acabo aquella aprehension y se apoderaron por la fuerza de las personas de dichos empleados y sus auxiliares.

En virtud de estos informes ordenó esta Secretaría al Ministro de la República en Washington, que se quejara al Gobierno de los Estados Unidos, de que unos celadores de la Aduana de Reinos y sus auxiliares, cumpliendo su deber, habian sido aprehendidos por tropa americana; y que solicitara la inmediata libertad de los mismos y una explicacion satisfactoria de los hechos, agregando que la cuestión sobre comiso del ganado se estaba tratando amigablemente.

El fundamento de estas mútuas quejas consiste en que ambos Gobiernos consideran que el lugar de los hechos pertenece á su respectivo territorio. Mas como su nacionalidad no podría desde luego determinarse, por hallarse cuestionada, y deber, en consecuencia, decidirse con arreglo á lo estipulado en la Convencion entre ambas Republicas del 1º. de Marzo de 1889, el Gobierno de

México propone al de los Estados Unidos, por el estimable conducto de Vuestra Excelencia, el arreglo siguiente, que pondrá termino inmediato y satisfactorio á la dificultad presente, á saber.

Los dos Gobiernos harán poner desde luego en libertad, el de México á los dos presos americanos y el de los Estados Unidos á los dos celadores y dos vecinos mexicanos, devolviendose además á sus dueños el ganado que aprehendió la Sección Aduanal de Reinos.

Las quejas de ambos Gobiernos sobre violacion de territorio quedarán pendientes para despues que la Comisión internacional de límites á que se refiere la Convención firmada el 1º. de Marzo de 1889 haya resuelto á cual de los dos paises pertenece el terreno en que se verificaron esas aprehensiones.

Los dos Gobiernos nombraran á la brevedad posible la Comision internacional establecida por la citada Convención.

Ruego á Vuestra Excelencia que se sirva comunicar á su Gobierno esta propuesta, encareciendole la conveniencia de su inmediata adopción, y le reitero las seguridades de mi consideración muy distinguida.

IGNº. MARISCAL.

A Su Excelencia

ISAAC P. GRAY,

*Enviado Extraordinario y Ministro Plenipotenciario
de los Estados Unidos de America.*

[Inclosure 7.]

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,

MEXICO, *September 8, 1893.*

Mr. MINISTER:

I have received the note of yesterday, wherein Your Excellency advises me, under instructions from your Government, that certain Mexican employés seized two citizens of the United States, and a number of sheep, on American soil, bordering on the Rio Grande River, near Reynosa, and removed them within Mexican Jurisdiction; and that the Government of Your Excellency asks the immediate release of the prisoners, and the return of the sheep; making formal complaint against this invasion of American Territory and violation of the rights of citizens of the United States.

In reply, I should state to Your Excellency that the advices, officially received at this Department, touching the acts upon which rests the complaint of Your Government are to the following effect: That the cattle in question had strayed illegally over to Mexican Territory, and that thereupon they were seized by guards of the Customs district of Reynosa, in the jurisdiction of Tamaulipas, assisted by two Mexican citizens; and that then the soldiers of the United States Army invaded Mexican Territory to prevent that seizure, and by force took possession of the persons of said employés and their assistants.

In virtue of these advices, this Department instructed the Minister of the Republic at Washington to make complaint to the Government of the United States that some guards connected with the Reynosa Customs service, and their assistants, while in the discharge of their duties, had been seized by American soldiers; and that he should ask for their immediate release and a satisfactory explanation of the occurrence, adding that the question of the confiscation of the cattle was being amicably arranged.

The basis of these counter complaints is that both Governments regard as pertaining to their respective territory the scene of the incident. However as the question of nationality cannot at once be determined, being in doubt, and consequently a decision should be had in accordance with the stipulations of the Convention, of March 1, 1889, between both Republics, the Government of Mexico proposes to that of the United States, through the worthy medium of Your Excellency, the following arrangement which will place immediate and satisfactory conclusion to the present dispute, to wit:

The two Governments shall forthwith place at liberty: that of Mexico the two American prisoners and that of the United States the two Mexican guards and the two Mexican citizens, returning also to their owners the sheep seized by the Reynosa Customs officials.

The complaints of the two Governments respecting the violation of territory shall be held in abeyance for settlement when ever the International Boundary Commission, referred to in the Convention, signed on March 1st 1889, shall resolve as to the true nationality of the land whereon these seizures were made.

The two Governments shall, as speedily as possible, appoint the International Commission provided for under the Convention aforesaid.

I pray that Your Excellency will be pleased to communicate this proposition to Your Government; urging upon you the expediency of its immediate adoption; and reiterating herewith the assurance of my very distinguished consideration.

(Sgd) IGNO. MARISCAL.

To His Excellency ISAAC P. GRAY.

[Inclosure 8.]

Mr. Gray to Señor Mariscal.

LEGATION OF THE UNITED STATES

MEXICO, *Sept. 9, 1893.*

SIR:

Acknowledging receipt of Your Excellency's esteemed note of yesterday, in reply to the demand of my Government for the release of two American citizens and the return of a number of sheep, seized by Mexican officials, from American soil bordering on the Rio Grande, near Reynosa, Tamaulipas, and submitting certain propositions for the settlement of the controversy, I have the honor to inform Your Excellency that I have this day, as requested by you, submitted to my Government the proposition you were pleased to convey in your note.

I beg to reiterate to Your Excellency the assurance of my highest regard.

(Sgd) ISAAC P. GRAY.

To His Excellency
IGNACIO MARISCAL.

&c &c

Mr. Gray to Mr. Gresham.

No 113.

LEGATION OF THE UNITED STATES.

MEXICO, *September 16, 1893.*

To the Honorable WALTER Q. GRESHAM,

&c &c

Washington, D. C.

SIR:

In sequence to my No. 110 of the 9th instant, I have the honor to forward herewith the further correspondence between the United States and the Mexican Government relating to the seizure by the latter of two American citizens and a flock of sheep; and involving the arrest and detention of two Mexican guards and two Mexican citizens by the United States, also the nationality of certain

disputed territory upon the Rio Grande where such seizures were made; such controversy having been satisfactorily adjusted except as to the boundary line between the two Governments.

The subject-matter of your telegram of the 10th instant, was by me promptly submitted in writing to the Minister for Foreign Affairs for Mexico, and that of the 14th instant, as understood by me, was delivered in person to said Minister also to the Secretary of the Treasury, under whose immediate jurisdiction are the Customs officers of Mexico.

I am Sir, most respectfully,
Your obedient servant,

ISAAC P. GRAY.

Enclosures:

- 1 Mr. Gresham to Mr. Gray, Sept 10, 1893. Telegram
- 2 Mr. Gray to Mr. Mariscal, " 11 "
- 3 Mr. Mariscal to Mr. Gray, " 11 "
- 4 Translation No. 3.
- 5 Mr. Gresham to Mr. Gray, Sept 14, 1893 Telegram
- 6 Mr. Gray to Mr. Gresham, " " " "
- 7 Mr. Limantour to Mr. Gray " 15, "

Subenclosure:

- a Mr. Fernandez to Mr. Limantour, Sept 14, 1893.
- 8 Translation of No. 7

Subenclosure:

- b Translation of A.

[Inclosure 1.]

Mr. Gresham to Mr. Gray.

[Telegram.—Paraphrase.]

WASHINGTON, D. C.,
September 10, 1893.

GRAY, Minister,
Mexico.

Your telegram of the ninth received. The proposition of the Mexican Government to forthwith release the American prisoners and return the sheep; and United States release the two Mexican guards and two Mexican citizens, reserving the question of violation of territory to be settled hereafter by International Boundary Commission is fair and therefore accepted. Whether it be two more or less Mexicans held in Texas they shall be at once released. You will inform Mexican Government that its willingness to settle

the controversy in a manner equally fair to both countries is appreciated by this Government, and United States entertains no doubt the question can be quickly and satisfactorily determined even without reference to Boundary Commission.

(sgd)

GRESHAM.

[Inclosure 2.]

Mr. Gray to Señor Mariscal.

LEGATION OF THE UNITED STATES,
MEXICO, *September 11, 1893.*

SIR:

I have the honor and very great pleasure to inform Your Excellency that I am in receipt by telegraph of yesterday from my Government of an acceptance of the proposition made by your Government to the United States for the settlement of the International Boundary controversy, now existing near Reynosa, upon the Rio Grande river, transmitted by me to my Government on the ninth instant, which proposition was in effect as follows:

Mexico forthwith to release the two American prisoners and to return the sheep seized; the United States to release the two Mexican guards and the two Mexican citizens. The question of violation of territory to be held in abeyance for settlement by International Boundary Commission provided for in the Convention of 1889. Both Governments speedily to appoint Commission.

In accepting the proposition my Government directs me to say that the two Mexican guards and the two Mexican citizens, be their number more or less, held in Texas, shall be released at once; and that the willingness of the Mexican Government to settle the Controversy in a manner equally fair to both countries is appreciated, and that the United States entertains no doubt the international question can be speedily and satisfactorily determined even without reference to the International Boundary Commission.

Permit me as the representative of my Government to express my gratification over the early adjustment, upon terms so acceptable, to both Governments, of a difficulty threatening the friendly relations now happily prevailing between our respective countries.

I beg to reiterate to Your Excellency the expression of my sincere personal esteem.

(sgd)

ISAAC P. GRAY.

To His Excellency
IGNACIO MARISCAL.

[Inclosure 3.]

Señor Mariscal to Mr. Gray.

SECRETARÍA DE RELACIONES EXTERIORES.

MÉXICO, *Septiembre 11 de 1893.*

Señor MINISTRO:

Por la nota de Vuestra Excelencia de esta fecha, quedo enterado con satisfacción de que el Gobierno de los Estados Unidos ha aceptado el arreglo propuesto por el de México en la nota de esta Secretaría de 8 del corriente, para poner termino inmediato á las dificultades originadas recientemente en un banco del rio Bravo.

Al manifestar á Vuestra Excelencia en contestación que no se esperaba menos de la justificación del Gobierno de los Estados Unidos, me es grato reiterarle las protestas de mi consideración muy distinguida.

(sgd) IGN^o. MARISCAL.

A Su Excelencia

ISAAC P. GRAY,

*Enviado Extraordinario y
Ministro Plenipotenciario
de los Estados Unidos de America.*

[Inclosure 4.]

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS.

MEXICO, *September 11, 1893.*

Mr. MINISTER:

By Your Excellency's note, of even date, I have noticed with satisfaction that the Government of the United States has accepted the arrangement proposed by that of Mexico in this Department's note of the 8th instant, to settle immediately the difficulties recently originating on a bank of the Rio Grande.

Stating to Your Excellency in reply that less could not be expected from the equity of the Government of the United States, it gratifies me to reiterate to you the assurance of my very distinguished consideration.

(sgd) INGO. MARISCAL.

To His Excellency,

ISAAC P. GRAY.

&c &c

[Inclosure 5.]

Mr. Gresham to Mr. Gray.

[Telegram—Paraphrase.]

“WASHINGTON, D. C.

*September 14, 1893.*GRAY, *Minister,**Mexico.*

The Mexican prisoners have been released Havana. (You should have)

Texas Twelfth.

GRESHAM.”

[Inclosure 6.]

Mr. Gray to Mr. Gresham.

[Telegram—Paraphrase.]

“LEGATION OF THE UNITED STATES.

MEXICO, September 14, 1893.

GRESHAM,

*Secretary,**Washington, D. C.*

The Government of Mexico ordered prisoners released and sheep returned eleventh. Order was misunderstood but was repeated this morning.

GRAY.

[Inclosure 7.]

Señor Limantour to Mr. Gray.

[Copy.]

Correspondencia particular del Srío de Hda.

MEXICO, Septiembre 15 de 1893.

José Ives Limantour saluda atentamente al Sr. D. Isaac P. Gray, Ministro de los Estados Unidos, y tiene el gusto de incluirle copia del telegrama que recibió anoche, y del que aparece—que han quedado cumplimentadas, en su debido tiempo, las órdenes de esta Secretaría.

[Inclosure 8.]

[Translation.]

Unofficial Correspondence of the Department of the Treasury.

MEXICO, September 15, 1893

Jose Ives Limantour presents his complements to Mr. Isaac P. Gray, Minister of the United States, and has the pleasure to

enclose copy of the telegram received last night, and from which it appears that due observance was had of the orders from this Department, which were fully carried out.

[Sub-inclosure A.]

Señor Fernandez to Señor Limantour.

[Telegram.]

SEPT. 14, 1893.

Sr. SRIO. DE HACIENDA:

Ya estaban en libertad los dos individuos detenidos con motivo de la aprehensión de ganado menor en el Banco, para cuando recibí su telegrama relativo en que se me ordena que dé aviso por esta vía, como lo hago, contestando su referido telegrama.

G. FERNANDEZ.

[Sub-inclosure B.]

[Translation.]

SEPT. 14, 1893.

To the SECRETARY OF TREASURY:

Before receiving your telegram, the two persons held on account of seizure of sheep on bank had been released. As requested I telegraph you in reply.

(Sgd) G. FERNÁNDEZ.

Señor Romero to Mr. Gresham.

LEGACIÓN DE MÉXICO,
WASHINGTON, *Octubre 12 de 1893.*

Señor SECRETARIO:

Tengo la honra de informar á usted que el Gobierno mexicana ha nombrado el Señor Licenciado Don José M. Canalizo, Comisionado de México en la Comisión internacional de límites que debe organizarse conforme á la Convención de 1 de Marzo de 1889 entre México y los Estados Unidos de América, para decidir las cuestiones que se susciten entre los dos países, con motivo de los cambios en el cauce del rio Bravo del Norte, en la parte que sirve de línea divisoria á los mismos.

Sírvase usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
etc., etc., etc.

[Translation.]

MEXICAN LEGATION.

WASHINGTON, *October 12, 1893.*

Mr. SECRETARY,

I have the honor to inform you that the Mexican Government has appointed Licentiate Senor Don José M. Canalizo, Commissioner of Mexico, in the international boundary commission to be organized under the treaty of March 1st, 1889, between Mexico and the United States of America to determine the questions that may arise between the two countries on account of the changes in the bed of the river Bravo del Norte, in the part that serves as a boundary line between them.

Accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. WALTER Q. GRESHAM,



Mr. Gray to Mr. Gresham.

No. 142.

LEGATION OF THE UNITED STATES,

MEXICO, *October 14, 1893.*

To the Honorable W. Q. GRESHAM,

*Secretary of State,**Washington, D. C.*

SIR:

In continuation to my Nos. 113 and 116, of the 16th and 19th ultimo, I submit herewith, in copy and translation, two notes from the Mexican Foreign Office, relative to the complaint of J. M. Lopez and others concerning their property rights on the Rio Grande near Camargo, Tamaulipas.

If the investigation made by the Mexican Foreign Office through the municipal corporation of Camargo, as shown by the enclosures and accompanying drawing, be correct, the memorialists have no just cause of complaint.

I am with great respect,

Your obedient servant,

ISAAC P. GRAY.

Enclosures:

1. Mr. Azpiroz to Mr. Gray July 24, 1893.
2. Translation of No. 1.
3. Mr. Gray to Mr. Mariscal Sept. 25, 1893.
4. Mr. Mariscal to Mr. Gray Sept. 28, 1893.
5. Translation of No. 4.
- A. Subenclosure: Drawing.

[Inclosure 1.]

Señor Azpiroz to Mr. Gray.

[Copy.]

CORRESPONDENCIA PARTICULAR DEL OFICIAL MAYOR
DE LA SECRETARIA DE RELACIONES EXTERIORES,
MEXICO, *Julio 24 de 1893.*

Hon. ISAAC P. GRAY,
etc., etc., etc.

ESTIMADO SEÑOR GRAY:

Con referencia á la nota extraoficial que se sirvió Usted dirigir al Señor Mariscal con fecha 5 del presente mes, trasmitiéndole la queja del Señor J. M. Lopez y otros respecto de sus derechos de propiedad sobre un terreno que, se dice, ha quedado en la margen derecha del Rio Bravo á consecuencia de un cambio violento de la corriente, tengo la honra de decir á Usted que esta Secretaría ha transmitido la queja al Gobernador del Estado de Tamaulipas para que informe sobre el particular. Luego que se reciba dicho informe, se comunicara á Usted la respuesta que corresponda acerca del asunto.

De Usted afectísimo y S. S.

M. AZPIROZ.

[Inclosure 2.]

[Translation.]

Unofficial.

UNOFFICIAL CORRESPONDENCE OF THE
ASSISTANT SECRETARY OF FOREIGN AFFAIRS,
Mexico, July 24, 1893.

Hon. ISAAC P. GRAY, &c. &c. &c.

ESTEEMED MR. GRAY:

Referring to your unofficial note, addressed to Senor Mariscal, on the 5th day of the current month, transmitting the complaint of Mr. J. M. Lopez and others regarding their property rights on land which, they allege, has been left on the right bank of the Rio Bravo in consequence of a sudden change in the current, I have the honor to advise you that this Department has referred the complaint to the Governor of the State of Tamaulipas in order that he may render a report on the matter.

As soon as said report is received, reply will be made you in the matter.

Yours &c. &c.

(Sgd)

M. AZPIROZ.

[Inclosure 3.]

Mr. Gray to Señor Mariscal.

LEGATION OF THE UNITED STATES,

Sept. 25, 1893.

Hon. IGNACIO MARISCAL, &c. &c.

MY DEAR MR. MARISCAL:

Respectfully referring Your Excellency's attention to the matter of the complaint of Mr. J. M. Lopez and others regarding their property rights to land which, they allege, had been left on the right bank of the Rio Bravo in consequence of a sudden change in the current, which complaint Your Excellency informed me had, on the 24th of last July, been referred to the Governor of Tamaulipas, with a request for a report thereon, I beg to say that I shall be pleased to receive whatever information Your Excellency may possess in relation to the matter.

Allow me to renew to Your Excellency the expression of my sincere esteem.

(Sgd) ISAAC P. GRAY.

[Inclosure 4.]

Señor Mariscal to Mr. Gray.

[Copy.]

CORRESPONDENCIA PARTICULAR DEL
SECRETARIO DE RELACIONES EXTERIORES,
MEXICO, Sept. 28—93.

Hon. ISAAC P. GRAY,
etc., etc.

MI ESTIMADO MR. GRAY:

Al acusar recibo el 24 de Julio último de la nota que el 5 del mismo mes me dirigió Ud. extraoficialmente, por especiales instrucciones de su Gobierno, exponiendo una queja de Félix Salinas, Crispin Gonzalez y otros que se creen con derechos de propiedad sobre un terreno ubicado á orillas del Rio Bravo, cuyas corrientes en diversos cambios lo agregaron primero á la margen izquierda, y recientemente lo han dejado de nuevo á la derecha en jurisdicción de la villa de Camargo Estado de Tamaulipas, el Señor Azpiroz, en mi ausencia, manifestó á Ud. que se pedirían informes al Gobernador de dicho Estado, trasmitiéndole traduccion de la nota referida, y del Memorial elevado por los quejosos el 31 de Marzo al Secretario de Estado.

Así se hizo, y el Gobernador ordenó que la Corporación Municipal de Camargo levantase una información sobre el asunto. Practicada con la escrupulosidad debida, ella demuestra que la reclamación carece en lo absoluto de fundamento.

Dicen los quejosos que son propietarios de un lote (No. 80) situado en el Condado de Starr, Texas, contiguo por el Sur al Rio Bravo, frente á Camargo, y que desde el año 1865 el lote mencionado fué creciendo gradualmente hasta alcanzar la extensión de una área de mil novecientos acres, sucediendo cosa semejante con otro lote (el número 79) perteneciente á otras personas. Añaden que, á sus expensas, un agrimensor midió el terreno que se habia agregado á su lote, y que como ni autoridad ni ciudadano alguno de México opuso el más leve obstáculo, á la posesión que tomaron de dicho terreno, es para ellos indudable que adquirieron derechos de propiedad sobre él, por aluvión, y que los conservan aunque, por efecto de un cambio reciente de las corrientes, el terreno se ha segregado del lote y ha venido á quedar nuevamente del lado de Camargo.

No hay la necesaria exactitud en las aseveraciones de los quejosos, pues ocultan, ó por lo menos, no mencionan dos hechos que son en el caso de tal importancia, que por si solos resolverían definitivamente toda dificultad, aun cuando los Gobiernos de México y de los Estados Unidos no hubiesen estipulado la Convención del 14 de Noviembre de 1884.

Confiesan que antes de 1865 solamente eran propietarios de un lote ubicado á orillas del rio y que después, por autoridad propia, se adjudicaron un terreno que la desviación de las corrientes fué agregando paulatinamente a su propiedad; pero no explican, como con buena fe debieron hacerlo, que al desviarse de su antiguo curso, las aguas abandonaron el canal mas profundo que corría antes del año expresado entre el terreno de que tomaron posesión y la ribera izquierda del rio; y se abstienen también de manifestar que la última desviación de las corrientes, la que es origen de su queja, ha sido precisamente en dirección á ese canal que por ser el más profundo, fué señalado en su centro el año de 1852 como límite entre las dos Repúblicas por la Comisión Internacional de límites, de conformidad con lo convenido en el artículo V del tratado de 2 de Febrero de 1848.

Basta á mi juicio, lo expuesto que resulta de la amplia información levantada por la Corporación Municipal de la villa de Camargo y que bien se aviene con lo que parcialmente han expuesto los

quejosos en su memorial, para convencer de que impulsados por su interés, han inducido en error al Departamento de Estado, omitiendo las observaciones que brevemente dejo consignadas y que mejor se comprenden en vista del croquis que acompaño. Me inclino á creer que la reclamación es debida, además, á la ignorancia de los quejosos, porque si conocieran la Convención de 1884, sabrán que la desviación de las corrientes del río, tal como ocurrió en 1865, no podía producir alteración alguna en la línea divisoria fijada después de los reconocimientos necesarios, por la Comisión Internacional á que me he referido.

En esta inteligencia, paréceme inútil ocuparme en analizar los cargos que los reclamantes exponen contra las autoridades de Camargo por el uso que según afirman, están haciendo del terreno mencionado, pues no siendo este propiedad de ellos ni perteneciente á territorio de los Estados Unidos, carecen de derecho para censurarles.

Añadiré solamente una ligera explicación del croquis adjunto, que es exacta reproducción de la carta numero 4 del Atlas original de la primitiva línea divisoria, y aclara perfectamente la cuestión suscitada.

La parte del Rio Grande ó Rio Bravo señalada de negro es el cauce reconocido en 1852, el que la corriente abandonó en 1865 y que ha vuelto á seguir últimamente.

La parte señalada con puntos indica el curso que el río siguió al abandonar su antiguo canal dejando del lado de Texas el terreno A que reclaman los quejosos, el cual terreno, á consecuencia del nuevo cambio de las corrientes, ha vuelto á quedar como antes del lado del Estado de Tamaulipas, á inmediaciones de Camargo.

Confío en que explicaciones tan obvias como las contenidas en esta nota, serán suficientes para que el Departamento de Estado, conociendo toda la verdad, deseche desde luego la reclamación de Salinas, Gonzalez, Lopez y los otros que se dicen propietarios de los lotes de tierras números 79 y 80 del Condado de Starr, Estado de Texas.

Aprovecho esta oportunidad para repetirme de Ud., como siempre, su sincero amigo.

sgd

IGNO. MARISCAL.

[Inclosure 5.]

[Translation.]

UNOFFICIAL CORRESPONDENCE OF THE
SECRETARY OF FOREIGN AFFAIRS,
MEXICO, *Sept. 28, 1893.*

Hon. ISAAC P. GRAY,
 &c. &c.

MY DEAR MR. GRAY:

On the 24th of July last, I received your unofficial note of the 5th of the same month, wherein, under special instructions from your Government you called attention to the complaint of Felix Salinas, Crespín Gonzalez & others, who claimed to own lands, situated on the banks of Rio Bravo, and that the river changed the channel several times and caused the said lands to form on the left banks, and recently left them, on the right bank which is in the jurisdiction of the village of Camargo, State of Tamaulipas. During my absence Mr. Aspiroz stated to you, that information would be requested from the Governor of said State to whom were sent translations of your note, and of the memorial addressed to the Secretary of State under date of Mch. 31st, by the complainants.

The Governor ordered, that, the Municipal Corporation of Camargo institute an investigation in the matter. The same was done carefully and shows, that the claim absolutely lacks foundation.

The complainants say, that they are the owners of a lot (No. 80) situated in Starr Co., Texas, bounded on the south by Rio Bravo and fronting Camargo, and that since the year 1865, the above mentioned lot gradually grew until it reached one thousand nine hundred acres, the same thing happening to another lot (No. 79) belonging to other parties. They add, that, at their own expense a surveyor measured the land that had been added to their lot, and as no authority or citizen of Mexico opposed in the least the possession they had taken of said land, they undoubtedly consider they have acquired right of property by accretion and that they retain the same notwithstanding that, due to recent changes of currents, the land has separated from the lot and it has again been left on the Camargo side.

There is not the necessary exactness in the complainants' assertions, because they conceal, or, at least do not mention two facts of so important a character, that they would themselves decide all dispute, even though the Govts. of Mexico and of the United States had not stipulated the Convention of the 14th of Nov.

1884. They do concede, that, before 1865 they were owners of a lot situated on the banks of the river, and, after that by their own authority, acquired for themselves a parcel of land which the change of the river currents aggregated to their property; but they do not explain, as in good faith they should, that, as the waters abandoned the deepest channel they left the old channel which the year before ran between the land they took possession of and the left bank of the river, and they also abstain from stating, that, the last deviation of the currents, which is the cause of their complaint, has been precisely in the direction of that channel, which on account of its being the deepest, was marked in its centre in the year 1852, as the Boundary between the two Republics, by the International Boundary Commission, in conformity with article 5 of the treaty of Feb. 2, 1848.

It is sufficient, to my judgment, to state that the above explanation, resulting from the ample information secured by the Municipal Corporation of Camargo, agrees with what has been partly set forth in their memorial, by the complainants, and that it is evident, that, urged by their own interests, they have led the Department of State into an error, by omitting the observations that I have in short related, and which can better be understood when the enclosed drawing is examined.

I am inclined to believe that the claim is due, moreover, to the ignorance of the complainants, for if they had understood the Convention of 1884, they would appreciate that, the deviation of the river currents, such as occurred in 1865, could not alter in any way the boundary line, fixed by the International Commission.

With this understanding, I think it useless to analyze the charges preferred by the complainants against the authorities of Camargo, as to the use they are making of the above mentioned land; for as it is not their property nor that of the U. S., the complainants have no right to censure them.

I will only add a brief explanation of the enclosed drawing; it is an exact reproduction of chart No. 4 of the Original Atlas of the 1st boundary line, and it explains perfectly the question at issue.

That part of the Rio Grande or Rio Bravo marked in black is the channel recognized in 1852, which the current abandoned in 1865 and which it has recently occupied anew.

That part marked in dots, indicates the course which the river took when it abandoned its old channel, leaving on the Texas side the land A, which is claimed by the complainants, and which

in consequence of the new change in currents, is again on the side of the State of Tamaulipas, near Camargo.

I trust that the explanation given in this note, will be sufficient in order that the Department of State, knowing the truth, will at once lay aside the claim made by Salinas, Gonzales, Lopez & others who claim ownership to lots Nos. 79 & 80, in Starr Co., State of Texas.

I am &c.

IGNO. MARISCAL.

Mr. Gresham to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON Oct. 16th 1893.

Señor Don. MATIAS ROMERO—

etc. etc. etc.

SIR:

I have the honor to acknowledge with gratification, the receipt of your note of the 12th instant, in which you inform the Department of the appointment of Señor Don José M. Canalizo, as Commissioner of Mexico under the treaty of March, 1889, to determine the boundary questions therein provided for.

Accept etc.

W. Q. GRESHAM.

Mr. Gresham to Mr. Gray.

DEPARTMENT OF STATE
WASHINGTON, Oct 25, 1893.

No. 116

ISAAC P. GRAY, Esq.,
&c, &c, &c.

SIR:—

I have received your No. 142 of 14th instant, in which you enclose a copy of a report sent you by the Foreign Office, on the Memorial of J. M. Lopez, and others, regarding lands affected by a change in the current of the Rio Grande, a subject first brought to your notice by instruction No. 40 of June 15, 1893.

A copy of the report will be sent to the memorialist Mr. Lopez, with copies of the boundary treaties of 1884 and 1889.

Stating that this and kindred cases will be brought to the attention of Col. Anson Mills, the Commissioner just appointed under the treaties named.

I am, &c

W. Q. GRESHAM.

Señor Romero to Mr. Gresham.

LEGACIÓN MEXICANA,
WASHINGTON, *Noviembre 7 de 1893.*

Señor SECRETARIO:

Tengo la honra de informar á usted, que el Señor Mariscal, Secretario de Relaciones Exteriores del Gobierno Mexicano, me avisa en nota fechada en la ciudad de México el 28 de Octubre próximo pasado, que el Señor Don Salvador Maillefert, actual Cónsul de México en Brownsville, Texas, ha sido nombrado Secretario mexicano de la Comision Internacional de Límites establecida por la Convención entre los Estados Unidos Mexicanos y los Estados Unidos de América, de 1 de Marzo de 1889.

Sírvase usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
etc., etc., etc.

[Translation.]

MEXICAN LEGATION.
WASHINGTON, *November 7, 1893.*

Mr. SECRETARY:

I have the honor to inform you, that Mr. Mariscal, Secretary of Foreign Affairs of the Government of Mexico, advises me in a note dated in the city of Mexico, October 28 last, that Mr. Salvador Maillefert, present Consul of Mexico at Brownsville, Texas, has been appointed Mexican Secretary of the International Committee of Boundaries established by the Convention between the United Mexican States and the United States of America, of March 1, 1889.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO

Hon. WALTER Q. GRESHAM
etc., etc., etc.

Mr. Gresham to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *Nov. 9, 1893.*

Señor Don MATIAS ROMERO—
etc. etc. etc.

SIR:

I have the honor to acknowledge the receipt of your note of the 7th instant, apprising the Department of the appointment

Senor Don Salvador Maillefert, Consul of Mexico at Brownsville, Texas, as Mexican Secretary of the International Boundary Commission, organized under the Convention between the United States and Mexico, of March 1, 1889.

Accept etc.

W. Q. GRESHAM.

Señor Romero to Mr. Gresham.

LEGACIÓN MEXICANA,
WASHINGTON, *Noviembre 13 de 1893.*

Señor SECRETARIO:

Tengo la honra de informar á usted que el Sr. Mariscal, Secretario de Relaciones Exteriores de los Estados Unidos Mexicanos, me avisa en nota fechada en la ciudad de México el 2 del corriente que el Teniente Coronel de Estado Mayor Especial, Don Emiliano Covella, ha sido nombrado Ingeniero Consultor por parte de México en la Comisión Internacional de Límites organizada conforme á la Convención de 1 de Marzo de 1889.

Sírvase usted aceptar Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
etc., etc., etc.

[Translation.]

MEXICAN LEGATION
WASHINGTON, *November 13, 1893.*

Mr. SECRETARY:—

I have the honor to inform you that Mr. Mariscal, Secretary of Foreign Affairs of the United Mexican States, advises me in note, dated in the city of Mexico the 2nd of the current month, that Lieutenant Colonel of State Special Staff, Mr. Emiliano Covella, has been appointed Consulting Engineer on the part of Mexico on the International Commission of Boundaries organized in conformity to the Convention of March 1, 1889.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. WALTER Q. GRESHAM
etc., etc., etc.

Mr. Gresham to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *November 15, 1893.*

Señor Don MATIAS ROMERO,
etc. etc. etc.

SIR: I have the honor to acknowledge the receipt of your note of the 13th instant, in which you apprise me of the appointment of Don Emiliano Corella, staff Lieutenant-Colonel on special service, as consulting Engineer, on the part of Mexico, in the Mixed Commission organized under the Boundary Convention of March, 1889, with your Government.

Accept etc.

W. Q. GRESHAM.

Mr. Gresham to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *Dec. 21, 1893.*

Señor Don MATIAS ROMERO,
&c., &c., &c.

SIR:

Referring to your note of October 19th last, suggesting an early preliminary meeting of the Boundary Commission under the treaty of March 1, 1889, at El Paso or Laredo, I have the honor to say that our Commissioner, Colonel Anson Mills, U. S. Army has advised the Department by letter of 18th instant, that, if agreeable to your Government, he will be glad to have the proposed meeting take place at the office of the Mexican Consul at El Paso, Texas, on Monday, January 8, 1894, at 10 o'clock A. M.

Accept, etc.,

W. Q. GRESHAM.

Señor Romero to Mr. Gresham.

LEGACIÓN MEXICANA,
Washington, Diciembre 23 de 1893.

Señor SECRETARIO:

Tengo la honra de informar á Usted, refiriéndome á la nota de ese Departamento de 21 del corriente y á mi respuesta de ayer que hoy recibí un cablegrama del Señor Mariscal, Secretario de Relaciones Exteriores de los Estados Unidos Mexicanos, en el que me avisa que de conformidad con la indicación contenida en la nota de Usted, el Comisionado de México en la Comisión

internacional de límites, organizada conforme á la Convención de 1º de Marzo de 1889, se hallará en el Paso, Texas, el 8 de Enero próximo para celebrar, á las diez de la mañana, con el Coronel Anson Mills, Comisionado de los Estados Unidos, la reunión preliminar de la Comisión.

Sírvase Usted aceptar, Señor Secretario las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
 &c &c &c

[Translation.]

MEXICAN LEGATION,
 WASHINGTON, *December 23, 1893.*

Mr. SECRETARY:

I have the honor to inform you referring to the note of your Department of the 21st instant and to my reply of yesterday that I have today received a cablegram from Señor Mariscal, Secretary of Foreign Relations of the United Mexican States, in which he advises me that in conformity with the suggestions contained in your note the Mexican Commissioner on the International Boundary Commission, organized conformably to the Convention of March 1, 1889, will be in El Paso, Texas, January 8th next to hold at 10 o'clock in the morning with Colonel Anson Mills, Commissioner of the United States, the preliminary meeting of the Commission.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
etc. etc. etc.

Mr. Gresham to Señor Romero.

DEPARTMENT OF STATE,
 WASHINGTON, *January 24, 1894.*

Señor Don MATIAS ROMERO,
 &c., &c., &c.

SIR:

I have the honor to inform you that the Department has received for its consideration a copy of the rules adopted by the Boundary Commission, organized under the convention of March 1, 1889, between the United States and Mexico.

Col. Mills, the American Commissioner, in his letter written from El Paso, transmitting these rules, says that he desired the adoption of a rule by which the Commission could proceed at once, upon its approval to mark the international bridges as provided in Article IV of the Convention of 1884.

The Mexican Commission objected to this, being of the opinion that no action as to marking the line on the bridges can be taken, until both governments provide therefor.

The American Commissioner suggests that both governments should at once by telegraph give instructions to their respective Commissioners, to mark the line on the bridges "for two important reasons: First—that of definite jurisdiction over crimes and disorders on the bridges, all of them much traveled and several hundred yards long, and; Second, being now on the ground, to mark them will occupy but a few hours, where as if we have to return here from the lower river, for that purpose, it will be at an expense of several hundred dollars and loss of much time."

Col. Mills' suggestions strike me as forcible, and I should be very glad if you would call to-morrow at the Department, in order that we may, if possible, arrange to have the bridges marked as proposed by him.

Accept, &c.

W. Q. GRESHAM.

Señor Romero to Mr. Gresham.

LEGACIÓN MEXICANA,
WASHINGTON, *Enero 25 de 1894.*

Señor SECRETARIO:

Hoy recibí la nota de Usted, de ayer, en la cual se sirve informarme que el Departamento de Estado recibió, para su exámen, copia del reglamento aprobado por la Comisión Internacional de Límites, organizada conforme á la Convención de 1º de Marzo de 1889, y que el Comisionado de los Estados Unidos hace presente la conveniencia de demarcar desde luego la linea divisoria en los puentes internacionales de El Paso, tanto para evitar las dificultades que puedan suscitarse por falta de esa demarcación, cuanto porque conviene aprovechar la permanencia de los Comisionados en El Paso, Texas, pues de otra manera cuando se acordara hacer esa operación y los Comisionados estuvieran en otro lugar habría que erogar gastos innecesarios en su regreso á El Paso, para demarcar aquella línea, sin tener en cuenta el tiempo que se emplearía en esa operación.

De conformidad con la indicación que me hizo Usted en su nota citada, ocurri en la mañana de hoy al Departamento de Estado, para hablar con Usted respecto de este asunto; y en virtud de la recomendación que me hizo Usted en dicha nota y que me repitió en nuestra entrevista, me he dirigido por el cable al Gobierno de México, recomendándole que autorice al Comisionado mexicano en la Comisión Internacional de Límites para hacer desde luego, con el de los Estados Unidos, la demarcación de la línea divisoria en los puentes internacionales expresados.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

HON. WALTER Q. GRESHAM,
&c. &c. &c.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *January 25, 1894.*

MR. SECRETARY:

I received today your note of yesterday in which you are pleased to inform me that the Department of State has received for its examination a copy of the regulations approved by the International Boundary Commission organized in accordance with the Convention of March 1, 1889, and that the Commissioner of the United States states the convenience of marking at once the dividing line on the international bridges at El Paso both in order to avoid the difficulties that may arise through lack of that demarcation and because it is proper to improve the occasion of the Commissioners being present in El Paso, Texas, since otherwise when they might agree to do this work and the Commissioners might be in some other place there would be unnecessary expenses caused by their return to El Paso, in order to mark that line, without taking into account the time that would be used in so doing.

In accordance with the suggestion which you made to me in that note I came to the Department of State this morning to speak with you on this subject; and by reason of the recommendation that you made in your note and which you repeated at our interview I have cabled to the Government of Mexico recommending that it authorize the Mexican Commissioner on the International Boundary Commission to make at once together with the American

Commissioner the demarcation of the boundary line on the international bridges mentioned.

Be pleased to accept, Mr. Secretary, the assurances of my highest consideration.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
etc. etc. etc.

Señor Romero to Mr. Gresham.

LEGACIÓN MEXICANA.

WASHINGTON, *Enero 25 de 1894.*

Señor SECRETARIO:

Tengo la honra de informar á Usted que he recibido instrucciones de mi Gobierno para presentar al de los Estados Unidos de América una queja con motivo de hechos recientes consumados en el banco de Santa Margarita, situado en territorio mexicano, por ciudadanos del Estado de Texas.

De una información levantada por el Juzgado 1° de Reynosa, Tamaulipas, México, aparece que el rio Bravo del Norte pasaba, al demarcarse la línea divisoria, al Norte del expresado banco de Santa Margarita, perteneciente al ciudadano mexicano Don Isaac Siller de las Fuentes; pero que en una de los cambios del cauce de ese rio, causado por aluvión, quedó el banco al Sur del rio; y que el 24 de Noviembre de 1893, Teodoro Rohdes, Melchor Mora y el Agrimensor Andrés Salinas, vecinos todos del Condado de Hidalgo, del Estado de Texas, pasaron á dicho banco y lo midieron para adjudicarlo á los dos primeros, como si estuviera en territorio de los Estados Unidos.

Remito á Usted para su conocimiento, copia de la información expresada, que contiene todos los datos referentes á este asunto.

Este es uno de los casos cuyo exámen corresponde á la Comisión Internacional de Límites organizada por la Convención de 1° de Marzo de 1889; pero á reserva de que se le someta en su oportunidad, el Gobierno de México ha creído que debe presentar desde luego una queja al de los Estados Unidos con motivo del atentado contra su territorio cometido por autoridades de este país.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Anexo: Copia de la Información del Juez 1° de Reynosa.

Hon. WALTER Q. GRESHAM,
&c. &c. &c.

[Inclosure.]

Secretaría de Estado y del Despacho de Relaciones Exteriores.—
México.

Un sello—Juzgado 1º—Constitucional de Reynosa.—Tamaulipas.

*Copia certificada de la información practicada por el Juzgado 1º—
con motivo de haber practicado una medida en el Banco nacional
mexicana de Santa Margarita los vecinos del Condado de Hidalgo,
Texas, Teodoro Rohdes, Melchor Mora y el agrimensor de dicho
Condado Andrés Salinas, afectándose con dicha medida la pro-
piedad particular del dueño del Banco y el territorio nacional.*

Un sello al márgen que dice:—Juzgado 1º—Constitucional de
Reynosa, Tamaulipas.—Un sello azul.—Presidencia Municipal—
Reynosa—Tamaulipas.

Con fecha 27 del corriente dice á esta Presidencia el Coronel Ciudadano Antonio Marinero, Jefe de las Armas de esta plaza lo que copio:—En oficio relativo recibido hoy, dice á esta Comandancia un agente de la misma, mandado al Banco del Rosario á adquirir informes sobre los hechos ocurridos, lo siguiente:—Tengo el honor de poner en el Superior conocimiento de Usted que el dia 24 del presente en la tarde entraron en terreno nacional en que se encuentra el Banco de Santa Margarita, propiedad del Señor Licenciado Siller de las Fuentes, los vecinos tejanos Teodoro Rul y Melchor Mora, los dos propietarios de Texas con seis individuos más á tomar unas medidas de dicho terreno, y segun las medidas que trazaron, da por resultado que le quitan al Señor Lic. Siller mas de una legua, teniendo que hacer presente que segun informes no tuvo quien les impidiera tomar las medidas, y no hubo ni siquiera una palabra ni de uno ni de otros, esto es lo ocurrido hasta la fecha. Y lo transcribo á Usted para su conocimiento, y para que se sirva levantar la información correspondiente del atentado cometido por vecinos del Estado de Texas.—Libertad y Constitución. Reynosa, Noviembre 28 de 1893. El Presidente—Máximo Dominguez.—V. Muguerza, Secretario—Al Alcalde 1º Constitucional.—Presente.—Reynosa, Noviembre veintiocho de mil ochocientos noventa y tres.—En vista del oficio fecha de hoy, de la Presidencia del R. Ayuntamiento de esta Villa, transcribiendo lo que con fecha de ayer dijo á aquella Presidencia el Señor Coronel Antonio Mainero, Jefe de las armas de esta plaza, relativo á violación del territorio nacional verificada el veinticuatro del corriente en el Banco de Santa Margarita, propiedad

del Señor Lic. Siller de las Fuentes por los vecinos de Texas Teodoro Rul y Melchor Mora, los dos propietarios de Texas, con seis individuos más de dicho Estado, á tomar unas medidas del terreno, y que con aquella medida que trazaron da por resultado que le quitaron al Señor Lic. Siller de las Fuentes más de una legua; debia de disponer como en efecto dispongo, se levante la correspondiente información, para poner en claro los hechos atentatorios sobre violación del territorio nacional cometidos por vecinos del Estado de Texas segun el contenido del oficio que da márgen á levantar la mencionada información, declarándose con ese fin al Juez Auxiliar de la Sección 9ª Ciudadano Lucas Treviño, por pertenecer el Banco de Santa Margarita á aquella Sección y en seguida declararse á las personas que el mencionado Juez Auxiliar designe tener conocimiento de los hechos que se denuncian de violación del territorio nacional mexicano. Lo decretó y firmó el Ciudadano Bernardino Anzaldua Alcalde 3º Constitucional suplente de esta, en ejercicio del Alcalde 1º, con testigos de asistencia.—Doy fé.—Bernardino Anzaldua.—Asistencia.—Abraham Medrano.—Asistencia. Manuel Isazi.—rúbricas.—En cumplimiento del auto anterior se agregó el oficio de la Presidencia del R. Ayuntamiento de esta Villa en una foja útil.—Conste.—rúbrica.—En veintiocho del citado mes y año, Noviembre de 1893, presente el Juez auxiliar de la Sección 9ª Ciudadano Lucas Treviño, previa protesta que otorgó en forma legal, ofreció decir verdad en cuanto supiera y le fuese preguntado, y siéndolo por su nombre y demás generales dijo llamarse como queda dicho, de treinta y dos años de edad, casado, oficio labrador, natural y vecino de esta, con domicilio en el rancho del Rosario de la Sección 9ª de esta Municipalidad. Preguntado en la forma legal sobre los particulares á que se refiere el oficio que con fecha de hoy transcibe el Presidente del R. Ayuntamiento que da márgen á esta información, dijo: que supo por Don Pedro Barrera, representante del Señor Lic. Isaac Siller de las Fuentes en el Banco nacional mexicano denominado Santa Margarita, que las corrientes del Rio arrancaron de terreno mexicano á formar Banco á la izquierda del Bravo: que vecinos del Estado de Texas habían entrado al expresado Banco practicando una medida sobre aquel, es decir, del Banco. Preguntado.—Si el mencionado Don Pedro Barrera no le dijo que vecinos del Estado de Texas eran quienes habían practicado la medida sobre el Banco dijo: que recuerda le dijo entre otros á Don Teodoro Rohdes, Melchor Mora con un agrimensor y otros.—Preguntado—Si Don Pedro Barrera le

informó que personas dependientes del Sr. Lic. Isaac Siller de las Fuentes se encontraban en el Banco de Santa Margarita, cuando los ciudadanos del Estado de Texas Rohdes, Mora y demás que indica practicaban la medida, dijo: que no le informó el Señor Barrera quienes de los dependientes del Señor Lic. Siller de las Fuentes estarían en el Banco cuando se practicó la medida.—Preguntado.—Cuanto más sepa que preste mérito á poner en claro el hecho que se averigua, dijo: que con este atentado cometido en el Banco de Santa Margarita ya son dos atentados cometidos en Bancos nacionales mexicanos con el que el 14 del actual sufrió el vecino Pedro Bento en el Banco de los Villarreales, que se trasluce haberse efectuado por vecinos de Texas: que lo dicho es la verdad á cargo de su protesta que tiene otorgada, y leída que hubo su declaración dijo ser la misma que tiene rendida, sin tener que añadir ni quitar, y que en ella se afirma y ratifica, firmando conmigo el Juez y los de mi asistencia. Doy fé.—Bernardino Auzaldua. Lúcas Treviño—Asistencia—Manuel Isazi.—Asistencia—Abraham Medrano.—rúbricas. * * * En la misma fecha (28 de Noviembre de 1893) presente en el Juzgado el Ciudadano Pedro Barrera, previa protesta que otorgó conforme á la ley, ofreció decir verdad en cuanto supiese y le fuese preguntado, y siéndolo por sus generales dijo: llamarse como queda dicho, de sesenta años de edad, casado, oficio labrador, natural y vecino de esta, con domicilio en el Rancho del Rosario de esta jurisdicción. Preguntado en la forma legal sobre los hechos á que se refiere el Juez Auxiliar de la Sección 9ª en su anterior declaración, dijo: que Don Narciso Bustamante, el veinticuatro del actual, en la tarde, pasó a la casa del que habla en el Rosario como representante que es del Banco de Santa Margarita, de la propiedad del Señor Lic. Don Isaac Siller de las Fuentes y de quien es mediero el expresado Bustamante quien reside dentro del expresado Banco nacional mexicano, á participarle de parte del vecino del Estado de Texas Melchor Mora, que el que habla pasase al Banco á donde estaba el expresado Mora, Don Teodoro Rohdes, como colindantes de Bancos mexicanos, el agrimensor del Condado de Hidalgo, Texas, Andrés Salinas y otros vecinos de aquel Condado, para que fuese á ver que en la medida le había dejado el Señor Rohdes cincuenta varas para el tráfico del Banco al Rio, y que las demas creces de dicho Banco era terreno de Texas, de los Estados Unidos de América: que él se excusó de ir á autorizar con su presencia la medida que se hechaba sin previo acuerdo de su principal, el Sr. Lic. Siller

de las Fuentes; y porque á aquel acto no concurría á la vez la autoridad competente de México: que creía indisputable la concurrencia de aquella, para una medida que no solamente puede afectar la propiedad particular de un individuo, sino la integridad del territorio nacional mexicano, por tratarse nada menos que de la linea divisoria de este país y el de los Estados Unidos de América, y considerando no tener la aptitud necesaria para gestionar con los vecinos de Texas en punto tan delicado, se concretó á dar cuenta inmediatamente con el mediero del Señor Lic. Siller, Rosalio Banda, al propietario de lo que estaba pasando en el Banco estando aun en el Banco Rohdes, Mora y los demas. Preguntado—Cuanto más sepa que preste mérito á poner en claro el hecho que se averigua, dijo: que quien puede dar informes más pormenorizados sobre la medida que practicaron el agrimensor Andres Salinas con los propietarios á la parte de Texas Teodoro Rohdes y Melchor Mora, es el mediero que le fué á llamar, Narciso Bustamante; que lo dicho es la verdad á cargo de su protesta que tiene otorgada, y leida que hubo su declaración, dijo ser la misma que tiene rendida sin tener que añadir ni quitar, y que en ella se afirma y ratifica, firmando conmigo el Juez y los de mi asistencia. Doy fé—Bernardino Anzaldua—Pedro Barrera. Asistencia—Abraham Medrano.—Asistencia. Manuel Isazi. rúbricas. * * * En la citada Villa, dicho dia, mes y año (28 de Noviembre de 1893) presente en el Juzgado el ciudadano Narciso Bustamante, previa protesta que otorgó conforme á la ley, ofreció decir verdad en cuanto supiese y le fuese preguntado, y siéndolo por sus generales dijo: llamarse como queda dicho, de cincuenta y nueve años de edad, oficio labrador, natural y vecino de esta, con residencia en el Banco nacional mexicano de Santa Margarita. Preguntado en la forma legal sobre los particulares á que se contrae esta información dijo: que el viérnes veinticuatro del actual en la tarde, fué de sus trabajos para la casa que tiene en el Banco de Santa Margarita á tomar un poco de café, y estando en la casa el que habla, llegó Melchor Mora, residente y vecino del Estado de Texas, á mandar hacer una taza de café, y que á él le cupo armonía ver á aquel Señor por allí, y le preguntó que qué andaba haciendo, y ya le contestó que Don Teodoro Rohdes, con el agrimensor del Condado, Señor Andres Salinas había medido la playa ó sea las creces del Banco, y que solo había dejado para el tráfico del Banco al nuevo Rio cincuenta varas; que lo demás se reputaba como terreno de los Estados Unidos; que él pasó al

Rosario é impuso al Mayordomo del Señor Siller, Don Pedro Barrera, de lo que estaba pasando en el Banco de Santa Margarita con relación á la medida que andaban echando sobre la parte adherida paulatinamente al referido Banco los Señores vecinos del Estado de Texas, Teodoro Rohdes Mora, agrimensor del Condado de Hidalgo Andrés Salinas y unos mozos del expresado Don Teodoro; que Barrera se excusó ir á autorizar con su presencia una medida que no se practicaba con la concurrencia de las autoridades de ambos países de los Estados Unidos de América y las de este país; que él entónces se retiró para el Banco, y ya estando allí le dijo Mora que fuera á ver el area de terreno que quedaba demarcada para el tráfico del Banco al Rio; que fué y le designó Mora cual era el area de terreno que le marcaba para hacer uso del Banco para el rio y que lo demás lo consideraban como terreno de los Estados Unidos: que se retiraron despues de haber practicado una medida de Oriente á Poniente sobre terreno anexo al Banco hará como tres ó cuatro años, y otra que tiraron del nuevo Rio de Sur á Norte hasta llegar al terrón del Banco en donde la suspendieron, no continuándola sobre lo que es el terreno del Banco: que echadas esas lineas se retiraron para Texas Don Teodoro, Mora y los demás, y que á poco regresó Mora y los demás y le dijo que decía Don Teodoro que no siguiera abriendo barrechos en el terreno demarcado por de Texas: que si continuaban trabajando el barrecho que tenían comenzado, venía á llevarse presos á los que estuvieran trabajando; que esto mismo mandó decir á su principal el Señor Lic. Siller de las Fuentes con el mediero Rosalío Banda y que aquel dió sus órdenes para que continuasen los trabajos del expresado barrecho; que no acataron órdenes de particulares si no era que los obligasen á desistir de los trabajos por fuerza mayor.—Preguntado—Qué otros de los vecinos residentes en el Banco de Santa Margarita presenciaron las medidas practicadas por los vecinos del Estado de Texas y agrimensor del Condado de Hidalgo del mismo Estado, en la parte adherida al terrón del Banco, dijo: que nadie de los demás medieros ni aun el que habla presenció abrir las brechas para echar la medida: que él, cuando lo llevaron á presenciar, ya estaban hechas las sendas por donde se habían tirado las medidas y dejado postes sobre ellas, los que mandó se destruyeran el Sr. Lic. Siller, y así lo verificaron ayer antes de venirse el que habla Feliciano Conde, Don Pedro Barrera y demas medieros.—Preguntado.—Cuanto más sepa que preste mérito á poner en claro el hecho que se averigua dijo: que no sabe más; que lo dicho es la verdad

á cargo de su protesta que tiene otorgada, y leída que la fué su declaración dijo: ser la misma que tiene rendida, sin tener que añadir ni quitar, y que en ella se afirma y ratifica, no firmándola por expresar no saber, lo hago yo el Juez con los de mi asistencia. Doy fé.—Bernardino Anzaldúa—Asistencia.—Manuel Isazi—Asistencia. Abraham Medrano. Rúbricas. * * * En la misma fecha (28 de Noviembre de 1893) presente en el Juzgado el C. Feliciano Conde, previa protesta que otorgó en forma legal, ofreció de decir verdad en cuanto supiese y fuese preguntado, y siéndolo por sus generales, dijo: llamarse como queda dicho, de cuarenta y tres años de edad, casado, oficio labrador, natural de Llera y vecino de esta con domicilio en el Banco nacional mexicano de Santa Margarita.—Preguntado en la forma legal sobre los particulares á que se contrae esta información, dijo: que la tarde del veinticuatro del actual, ya bastante tarde, estando el exponente desgranando un maíz, llegó Narciso Bustamante y dijo á Don Pedro Barrera, que le mandaba decir Melchor Mora que fuera á ver á donde quería que le dejase cincuenta varas de terreno Don Teodoro Rohdes, para hacer el tráfico del Banco al nuevo Rio, pues que las creces del Banco lo consideraban como terreno americano: Que Don Pedro Barrera no quiso prestarse á ir á donde se le llamaba, y se concretó solamente á dar cuenta de aquel hecho, que él no tuvo oportunidad de ver dos brechas; una practicada de Oriente á Poniente y otra de Sur á Norte que partía de la orilla del Rio y terminaba al Norte, como á unos cinco pasos sobre el terreno del Banco. Preguntado—Si supo lo que contestó el Señor Lic. Siller á su mayordomo Pedro Barrera relativamente á las medidas ejecutadas por Don Teodoro Rohdes, Melchor Mora y agrimensor del Condado de Hidalgo, Texas, Andrés Salinas y sirvientes del primero, dijo: que el Señor Lic. Siller mandó instrucciones por escrito á Don Pedro Barrera, para que no respetara la medida que había echado Rohdes, Salinas y Mora; que se destruyeran las sendas que aquellos habían abierto, y quitaran los postes que habían colocado; que no se respetasen aquellas líneas; que continuasen trabajando en donde se habían abierto unos barrechos nuevos sobre terreno que habían aquellos demarcado como de los Estados Unidos, que solo en el caso de que fuerza mayor se los impidiera, y esto previa la protesta respectiva de aquel acto de expropiación: que ayer antes de venirse Don Pedro Barrera, Narciso Bustamante y el que habla con los demás medieros, quitaron todos los postes que había sobre las sendas. Preguntado—Cuanto más sepa que preste mérito á

poner en claro el hecho que se averigua, dijo: que no sabe más, que lo dicho es la verdad, á cargo de su protesta que tiene otorgada, y leida que le fué su declaración dijo ser la misma que tiene rendida sin tener que añadir ni quitar, y que en ella se afirma y ratifica, no firmándola por expresar no saber; lo hago yo el Juez con los de mi asistencia. Doy fé. Bernardino Anzaldua—Asistencia—Manuel Isazi.—Asistencia—Abraham Medrano.—rúbricas.—Es copia que certifico, sacada de su original que obra en este Juzgado.—Reynosa, Noviembre veintiocho de mil ochocientos noventa y tres, que firmo yo el referido Juez con los testigos de asistencia en defecto de Escribano.—Doy fé.—(firmado.) Bernardino Anzaldua.—(firmado.) A. Manuel Isazi.—(firmado.) Abraham Medrano.

Es copia: México, Enero 10 de 1994. [sic]

(firmado.)

M. AZPIROZ.

Es copia: Washington, Enero 25 de 1894.

M. COVARRUBIAS.

[Translation.]

LEGATION OF MEXICO,
WASHINGTON, *January 25, 1894.*

Mr. SECRETARY:—

I have the honor to inform you that I have received instructions from my Government to lay before that of the United States of America a complaint on account of certain acts committed at the "Bank" of Santa Margarita, situated in Mexican territory, by citizens of the State of Texas.

From an investigation held by the First Court of Reynosa, Tamaulipas, Mexico, it appears that the Rio Grande ran, when the dividing line was drawn, to the north of the aforesaid bank of Santa Margarita, belonging to Don Isaac Siller de las Fuentes, a Mexican citizen; but that, in one of the changes of the bed of that river, caused by accretion, the bank remained on the south side of the river; and that, on the 24th of November, 1893, Teodoro Rohdes, Melchor Mora and Andres Salinas, surveyor, all of them being residents of Hidalgo County, in the State of Texas, crossed to the said bank, and surveyed it, for the purpose of adjudging it to the two first named persons, as if it had been in the territory of the United States.

I herewith send you, for your information, a copy of the proceedings held in connection with the investigation referred to, which document contains all the data relating to this matter.

This is one of the cases whose examination comes within the province of the International Boundary Commission organized in pursuance of the Convention of March 1, 1889; but, reserving the right to submit it to that Commission at the proper time, the Government of Mexico has thought proper to present without further delay, a complaint to the United States Government, on account of the encroachment upon its territory committed by authorities of this country.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
etc. etc.

Enclosure.

[Inclosure.]

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS, MEXICO.

(A seal) First Constitutional Judge of Reynosa—Tamaulipas.

Certified copy of the report made by the First Court in connection with the surveys made on the Mexican National bar of Santa Margarita by the residents of the County of Hidalgo, Texas, Teodoro Rhodes, Melchor Mora, and the surveyor of said county, Andres Salinas, the private property of the owner of the bar and the National territory being affected by said survey.

A seal on the margin reading: First Constitutional Judge of Reynosa, Tamaulipas. (A blue seal.) Office of Municipal President—Reynosa—Tamaulipas.

Under date of the 27th instant Colonel Antonio Marinero, Commander of Arms of this place, stated to this office what I copy below:

In a dispatch received to-day, an agent sent by this Commandery to the Rosario bar for the purpose of obtaining information on the events which have occurred makes the following statement: I have the honor to inform you that on the 24th instant, in the afternoon, Teodoro Rul and Melchor Mora, both citizens and property owners of Texas, together with six other individuals, entered National Territory on which is situated the Santa Margarita bar, owned by attorney Siller de las Fuentes, for the purpose of making surveys of said land, and as a result of the surveys which they made more than one league is taken from Mr. Siller, it being necessary to state that according to information there was no

person to prevent said parties from making the survey, and there was not even a word from the one or the others; this is what has occurred up to date. All of which I transcribe to you for your information, and in order that you may make the proper report regarding this unlawful act committed by residents of the state of Texas. Liberty and Constitution. Reynosa, November 28, 1893.

MAXIMO DOMINGUEZ,
President.

V. MUGUERZA,
Secretary.

REYNOSA, November 28, 1893.

To the First Constitutional Alcalde, City.

In view of the dispatch of to-day, from the office of President of the town council of this city, transcribing that which was stated to said office yesterday by Colonel Antonio Marinero, Commander of Arms of this place, relating to the violation of the national territory committed on the 24th instant on the Santa Margarita bar, the property of Mr. Siller de las Fuentes, by Teodoro Rul and Melchor Mora, both citizens and property owners of Texas together with six other individuals of said state, in making surveys of the land, they having deprived Mr. Siller de las Fuentes of more than one league by means of the surveys so made; I ought to and do hereby order that the proper report be made in order to elucidate the unlawful acts of violation of the national territory committed by citizens of the state of Texas according to the contents of the dispatch which warrants the making of said report, for this purpose designating Lucas Treviño, auxiliary judge of the IX section, because the Santa Margarita bar belongs to that section, and afterwards designating such persons as the said auxiliary judge may indicate, to take cognizance of the events which are reported in violation of the Mexican National Territory. So decreed and signed by the citizen Bernardino Alzaldúa, Third Constitutional Deputy Alcalde of this city, acting as First Alcalde, together with the witnesses present. To which I certify. Bernardino Anzaldúa. Witnesses: Abraham Medrano, Manuel Isapi. In compliance with the foregoing order, the dispatch of the Office of President of the Municipal Council of this city was added on one written sheet. Let this be evidenced. Signature.

On the 28th of the said month and year (November, 1893), appeared the auxiliary judge of the IX. Section citizen Lucas Treviño, and, after making the promise of law, he offered to tell the truth as far as he knew and should be asked, and being asked his

name and other general questions, he said his name was as above and that he was 32 years old, married, a farmer by occupation, and a native and resident of this city with domicile in the Rosario ranch of the IX section of this municipality. Being questioned according to law regarding the points referred to in the dispatch sent by the President of the town council to-day and which gave rise to the taking of this evidence, he said that he knew, through Pedro Barrera, representative of Mr. Isaac Siller de las Fuentes on the bar called Santa Margarita, belonging to the Mexican nation, and which the currents of the river tore away from Mexican land and formed into a bar on the left of the Rio Grande; that citizens of the state of Texas had entered on said bar and made a survey thereon. Being asked whether the said Pedro Barrera had not told him what citizens of the state of Texas had made the survey on the bar, he said that he remembered that he had been told, among others, that they were Teodoro Rohdes, Melchor Mora, a surveyor, and others. Being asked whether Pedro Barrera informed him what persons in the employ of Mr. Isaac Siller de las Fuentes were in the Santa Margarita bar when the citizens of Texas, Rohdes, Mora, and others whom he mentions, made the survey, he said that he was not informed by Mr. Barrera which of the employees of Mr. Siller de las Fuentes were on the bar when the survey was made. Being asked what else he knew that would aid in clearing up the matter under investigation, he said that this violation committed on the Santa Margarita bar constitutes the second committed on bars belonging to Mexican territory, the other having been suffered on the 14th instant by the citizen Pedro Bento on the Villarreales bar, it being known to have been committed by citizens of Texas; that what he has said is the truth according to the promise he has made, and when his declaration was read to him he said that it was the one he had made without having any addition or detraction to make, and that he confirms and ratifies it, and he signed it with me the judge and witnesses. To which I certify. Bernardino Auzaldua. Lucas Treviño. Witnesses: Manuel Isazi, Abraham Medrano.

On the same date (November 28, 1893) there appeared in court the citizen Pedro Barrera, who, having promised in due form to tell the truth as far as he knew and being asked the usual questions, said that his name was as above, and that he was 60 years old, married, a farmer, and a native and resident of this city, with domicile in the Rosario ranch of this jurisdiction. Being asked in the legal manner regarding the facts referred to by the auxiliary judge

of the IX section in his foregoing declaration, he said that Narciso Bustamente, on the 24th instant in the afternoon, went to the house of him deponent at the Rosario ranch, as representative of the Santa Margarita bar owned by Mr. Isaac Siller de las Fuentes, and of whom the said Bustamente, residing within the aforesaid Mexican National Bar, is a co-partner, in order to notify him, by order of Melchor Mora and Teodoro Rohdes, citizens of Texas and contiguous (?) to Mexican bars; the surveyor of Hidalgo County, Texas, Andrés Salinas; and other residents of said county, to go and see that Mr. Rohdes had left him in the survey 50 yards for the traffic to the river, and that the remaining accretions of said bar were land of Texas, United States of America; that he refused to go and authorize by his presence the survey which was being made without first obtaining the consent of his principal, Mr. Siller de las Fuentes; and because said act was not performed in the presence of the proper Mexican authority, for he thought that the presence of said authority was indispensable in a survey which not only might affect the private property of an individual but also the integrity of Mexican National territory, since it was a question of nothing less than the boundary line between this country and the United States of America and considering that he did not have the necessary qualifications to negotiate with the citizens of Texas on so delicate a point, he confined himself to giving an account immediately through the co-partner of Mr. Siller, Rosalio Bando, to the owner of what was happening in the bar while Rohdes, Mora, and the others were still there. Being asked what else he knew that might throw light on the subject under investigation, he said that the person who could give more detailed information on the survey made by the surveyor Andrés Salinas, together with the owners to the part of (residing in?) Texas, Teodoro Rohdes and Melchor Mora, was the co-partner whom he had gone to call, viz., Narciso Bustamente; that his statements are the truth according to the promise he has made, and his declaration being read to him he said it was the same he had made, without having anything to add or detract, and that he confirmed and ratified it, signing with me the judge and witnesses. To which I certify. Bernardino Anzaldua. Pedro Barrera. Witnesses: Abraham Medrano, Manuel Isazi.

In the said city on the same day, month, and year (November 28, 1893), there appeared in the court the citizen Narciso Bustamente, who solemnly promised to tell the truth as far as he knew and might be asked, and upon being questioned said: that his name

was as aforesaid, and that he was 59 years old, a farmer, and a native and resident of this city, residing on the Mexican National bar of Santa Margarita. Being asked in legal form regarding the matters to which this report relates, he said that on Friday the 24th instant in the afternoon he went from his work to the house he has on the Santa Margarita bar to take a little coffee, and while he deponent was in the house there arrived Melchor Mora, resident and citizen of the state of Texas and ordered a cup of coffee made and that he was surprised to see that gentleman there and asked him what he was doing, and he answered that with Teodoro Rohdes and Mr. Andres Salinas, surveyor of the county, he had surveyed the beach or the accretions of the bar, and that he had only left 50 yards for the traffic from the bar to the river; that the remainder was considered as land of the United States; that he went to the Rosario and informed the steward of Mr. Siller, Pedro Barrera, of what was happening on the Santa Margarita bar in connection with the survey which was being made, on the part which had been gradually added to said bar, by the citizens of Texas, Teodoro Rohdes, (Melchor?) Mora, the Surveyor of Hidalgo county, Andres Salinas, and some boy assistants of the said Teodoro; that Barrera refused to go and authorize by his presence a survey which was not made in the presence of the authorities of both the United States and this country; that he then left for the bar, and that when he arrived he was told by Mora to go and see what area of land had been marked off for the traffic from the bar to the river; that he went and was shown by Mora the area of land that had been marked off for the use of the bar to the river and that the rest was considered to be land of the United States; that they left after making a measurement from east to west of land that has been annexed to the bar for three or four years, and another measurement from the new river from south to north until they reached the mound of the bar, where they suspended the survey, not continuing it over what is the land of the bar; that when these lines had been drawn Teodoro, Mora, and the others withdrew to Texas, and that shortly afterwards Mora and the others returned and told him that Teodoro had said that he should not open up any more barrechos(?) on the land demarcated by Texas; that if they continued to work on the barrecho which they had begun he would come and take those prisoners who were working; that he ordered this very thing told to his principal, Mr. Siller de las Fuentes, through the co-partner Rosalio Banda and that that person gave orders to continue the work in the said barrecho; that

they did not pay attention to orders from private persons unless they compelled them to desist from their work by superior force. Being asked what other citizens residing on Santa Margarita bar witnessed the surveys made by the citizens of Texas and the surveyor of Hidalgo county of said state, in the part which had adhered to the high ground of the bar, he said that none of the remaining co-partners nor even he the deponent witnessed the opening of the breaches for the purpose of making the survey; that when he arrived the paths were already made through which they had drawn the measuring lines and on which they had left posts, which latter were ordered destroyed by Mr. Siller, this having been done yesterday, before the deponent came, by Feliciano Conde, Pedro Barrera, and other co-partners. Being asked what else he knew that would throw light on the subject, he said that he knew nothing more; that what he has said is the truth according to his promise, and his declaration having been read to him he said that it was the same he had made, that he had nothing to add or detract, and that he confirmed and ratified it; he did not sign it because he said he could not write, and I the judge do so together with the witnesses. To which I certify. Bernardino Anzaldua. Witnesses; Manuel Isazi, Abraham Medrano.

On the same date (November 28, 1893), there appeared in the court the citizen Feliciano Conde, who, after making the promise of law to tell the truth as far as he might know or be questioned, and being asked the usual questions about himself, said that his name was as above, that he was 43 years old, married, a farmer, a native of Llera, and a citizen of this city with domicile on the Mexican National bar Santa Margarita. Being asked in the legal manner regarding the matter to which this report relates, he said that in the afternoon of the 24th instant, rather late, while he deponent was shelling corn, Narciso Bustamente came and told Pedro Barrera that Melchor Mora had sent word to him to go and see where he wanted Teodoro Rohdes to leave him 50 yards of land for the traffic from the bar to the new river, inasmuch as they considered the accretions of the bar as American land; that Pedro Barrera did not wish to go where he had been called and confined himself solely to relating the fact that he had no opportunity to see two breaches, one made from east to west and the other from south to north leaving the bank of the river and land to the north, about five paces on the land of the bar. Asked whether he knew what Mr. Siller had replied to his steward Pedro (?) Rohdes, Melchor Mora, and the surveyor of Hidalgo

County, Texas, Andres Salinas, and servants of the former, he said that Mr. Siller sent instructions in writing to Pedro Barrera not to respect the survey that had been made by Rohdes, Salinas, and Mora; to destroy the paths which they had made and remove the posts they had placed; not to respect those lines; to continue working where they had opened some new barrechos on land which the said parties had marked off as belonging to the United States, unless they were prevented by superior force and then only after making the proper protest against such an act of expropriation; that yesterday, before the arrival of Pedro Barrera, Narciso Bustamente, and the deponent together with the other copartners, the posts on the paths had been removed. Being asked what else he knew that would throw light on the subject, he said that he knew no more, that his statements were true according to his promise, and on his declaration being read to him he said it was the same he had made and that he had nothing to add or detract; and that he confirmed and ratified it; he did not sign it because he was not able to write, and therefore I do so together with the witnesses. To which I certify. Bernardino Anzaldua. Witnesses: Manuel Isazi, Abraham Medrano. I certify that the foregoing is a copy taken from the original on file in this court. Reynosa, November 28, 1893. All of which I the aforesaid judge, together with the witnesses, sign in default of a scrivener. To which I certify. (Signed) Bernardino Anzaldua. (Signed) A. Manuel Isazi. (Signed) Abraham Medrano.

A copy: Mexico, January 10, 1894. Signed M. Aspiroz.

A copy: Washington, January 25, 1894, M. Covarrubias.

Mr. Gresham to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *January 31, 1894.*

Señor Don MATIAS ROMERO,
 &c., &c., &c.

SIR:

I have the honor to enclose herewith a draft (in English only) of the joint rules for the guidance of the Boundary Line Commission between this country and Mexico, framed in accordance with the understanding reached in our conversation on the subject.

I venture to suggest that you might have the Spanish version placed in parallel columns alongside of the English herewith transmitted, and that being done, if you will kindly send a copy of the completed rules in both languages to this Department, the

same will be transmitted to Colonel Mills, with my approval, as soon as your Government shall have intimated its approval thereof.

Accept, etc.

W. Q. GRESHAM.

Enclosure: Draft of rules, as above.^a

Señor Romero to Mr. Gresham.

LEGACIÓN MEXICANA,
WASHINGTON, *Febrero 1° de 1894.*

Señor SECRETARIO:

Tengo la honra de acusar recibo de la nota de Usted, fechada el 31 de Enero próximo pasado, con la cual se sirvió Usted remitirme copia en inglés del reglamento de la Comisión Internacional de Límites organizada conforme á la Convención de 1° de Marzo de 1889, formado por los dos Comisionados, con las correcciones que indicó Usted en la entrevista que tuvimos ayer.

De conformidad con los deseos manifestados por Usted en dicha nota, le devuelvo ese texto, habiendo colocado en el lugar correspondiente el texto español, y mando ya un ejemplar de ambos textos al Gobierno de México para que si tiene á bien aprobar, como se lo recomiendo, las modificaciones propuestas por el Gobierno de los Estados Unidos al reglamento aprobado por la Comisión, lo comunique al Comisionado mexicano, con el objeto de que pueda ponerse en práctica desde luego ese reglamento.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. WALTER Q. GRESHAM.

&c. &c. &c.

Anexo; Proyecto de reglamento en ambas lenguas.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *February 1, 1894.*

Mr. SECRETARY:

I have the honor to acknowledge receipt of your note dated January 31 last in which you were pleased to transmit to me a copy in English of the regulations of the International Boundary Commission organized conformably to the Convention of March 1, 1889 and drawn up by the two Commissioners, with the corrections which you suggested in the interview that we had yesterday.

Enclosure omitted. For text of Regulations as adopted and approved by both Governments, see supra p. 93.—Agent's note.]

In accordance with the wishes expressed by you in that note I return to you that text having annotated the Spanish text in the corresponding place and I am sending a copy of both texts to the Government of Mexico in order that it may approve if it so desires the modifications proposed by the Government of the United States to the regulations approved by the Commission, and I have communicated it to the Mexican Commissioner so that he will be able to put into operation at once these regulations.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
etc. etc. etc.

Annex: Project of Regulations in both languages.^a

Señor Romero to Mr. Gresham.

LEGACIÓN MEXICANA,
WASHINGTON *Febrero 9 de 1894.*

Señor SECRETARIO:

Tengo la honra de informar á Usted que la Secretaría de Relaciones Exteriores del Gobierno de México ha dado instrucciones á la de Hacienda para que se libren las órdenes correspondientes á las Aduanas fronterizas del Norte á fin de que permitan el paso libre de los efectos, aparatos é instrumentos que pertenezcan á la Comisión Internacional de Límites cuando pase á territorio mexicano en desempeño de su encargo.

Iguales instrucciones se han dado á la Secretaría de Guerra para que los Jefes de las Zonas militares 2^a, 3^a. y 4^a. permitan el paso de la escolta que acompañe á los miembros de los Estados Unidos de la Comisión Internacionales de Límites, cuando se trasladen al territorio mexicano en cumplimiento de su encargo.

El Gobierno de México cree que el de los Estados Unidos habrá expedido órdenes semejantes por lo que respecta á los miembros mexicanos de la Comisión y en todo caso desea que este Gobierno tenga noticia de las disposiciones expedidas por él sobre este asunto.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
&c &c &c

^a [Enclosure omitted. For text of the Regulations adopted and approved by both Governments, see *supra*, pp. 93.—Agent's note.]

[Translation.]

LEGATION OF MEXICO,
WASHINGTON, *February 9th, 1894.*

Mr. SECRETARY:

I have the honor to inform you that the Department of Foreign Relations of the Mexican Government has instructed the Department of Finance to issue orders to the custom houses on our northern frontier to allow free entry to the effects, apparatus and instruments belonging to the International Boundary Commission whenever it may enter Mexican territory in the performance of its duties.

Instructions have likewise been given to the War Department to the end that the officers in command of the second, third and fourth military zones may permit the crossing of the escort accompanying the American members of the International Boundary Commission when they enter Mexican territory in the discharge of their duties.

The Government of Mexico presumes that that of the United States has issued similar orders with respect to the Mexican members of the Commission; at all events, it wishes this Government to be informed of the steps which it has taken in connection with this matter.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
etc. etc.

Señor Romero to Mr. Gresham.

LEGACIÓN MEXICANA,
WASHINGTON *Febrero 9 de 1894.*

Señor SECRETARIO: Tengo la honra de informar á Usted que de conformidad con lo que me manifestó Usted en su nota de 24 de Enero próximo pasado y en la entrevista que tuvimos en el Departamento de Estado el día 25, recomendé por el cable al Gobierno mexicano que diera instrucciones al Comisionado de México en la Comisión Internacional de Límites, organizada conforme á la Convención de 1º de Marzo de 1889, para que procediera á la demarcación de la linea divisoria en los puentes internacionales entre El Paso, Texas, y Paso del Norte, México, conforme al artículo IV de la Convención de 12 de Noviembre de 1884, aprovechando la permanencia de los Comisionados en El Paso, Texas; y que hoy

he recibido una respuesta del Gobierno de México, fechada el 30 de Enero citado, en la que se me informa que se había dado ya al Comisionado mexicano la antonización necesaria para que proceda á la determinación de la línea divisoria entre las poblaciones mencionadas, con extricto arreglo á la Convención de 1889.

Sírase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

[Translation.]

LEGATION OF MEXICO,
WASHINGTON, *February 9, 1894.*

Mr. SECRETARY:

I have the honor to inform you that, in accordance with the contents of your note of the 24th ultimo and with the desire expressed by you during the interview which we had at the Department of State on the 25th, I suggested to the Government of Mexico, by cable, to instruct the Commissioner of Mexico on the International Boundary Commission which was organized in pursuance of the convention of March 1st, 1889, to proceed to the demarcation of the boundary line on the international bridges between El Paso, Texas, and Paso del Norte, Mexico, according to article IV of the convention of November 12th, 1884, thus taking advantage of the presence of the Commissioners at El Paso, Texas; and that I have received a reply from the Government of Mexico, bearing date of the 30th, ultimo, whereby I am informed that the Mexican Commissioner had already been authorized to proceed to the determination of the boundary line between the aforesaid towns, in strict harmony with the convention of 1889.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
etc. etc.

Mr. Gresham to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *February 21, 1894.*

Señor Don MATIAS ROMERO.

&c., &c., &c.

SIR: I have the honor to acknowledge the receipt of your note of the 9th instant, relative to the directions given to the proper Customs officers of the Mexican Government for the free entry of

the effects and apparatus of the International Boundary Commission whenever it may enter Mexican territory on its duties, and to the proper military officers to permit the crossing into Mexico of the American escort of the Commission when necessary.

I shall inform the Secretary of the Treasury and the Secretary of War and solicit responsive action as regards the Mexican members of the Commission.

Accept, &c.

W. Q. GRESHAM.

Mr. Gresham to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *Feb. 21, 1894.*

Señor Don MATIAS ROMERO,
 &c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 9th instant, apprising me that the Mexican Boundary Commission has been authorized to proceed with the demarcation of the boundary line between the United States and Mexico, on the bridges between El Paso and El Paso del Norte in strict conformity with the Conventions of Nov. 12, 1884, and March 1, 1889.

I have so advised the Commissioner on the part of this Government.

Accept, etc.

W. Q. GRESHAM.

Señor Romero to Mr. Gresham.

LEGACIÓN MÉXICANA,
WASHINGTON, *Febrero 26 de 1894.*

Señor SECRETARIO:

Tengo la honra de informar á Usted que hoy he recibido una comunicación del Secretario de Relaciones Exteriores del Gobierno Mexicano, fechada el 16 del corriente, en la que me informa que se aprobó el reglamento de la Comisión Internacionales de Límites, formulado por dicha Comisión en los términos en que fué modificado por Usted, de acuerdo conmigo, en la entrevista que tuvimos el 31 de Enero próximo pasado, y cuyo texto inglés me mandó Usted con su nota de esa fecha, habiéndolo yo devuelto con el texto español de ese reglamento, con nota de 1º del corriente.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
 &c &c &c

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *February 26, 1894.*

MR. SECRETARY:

I have the honor to inform you that I have received today a communication from the Secretary of Foreign Relations of the Mexican Government dated the 16th instant, in which he informs me that the regulation of the International Boundary Commission has been approved, which was formulated by said Commission in the terms in which it was modified by you, by agreement with me in the interview we had on the 31st of January last, the English text of which regulation you sent to me with your note of that date, I having returned it with the Spanish text of said regulation, with note of the 1st instant.

Accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

HON. WALTER Q. GRESHAM,
etc. etc.

Señor Romero to Mr. Gresham.

LEGACIÓN MEXICANA,
WASHINGTON, *Marzo 12 de 1894.*

SEÑOR SECRETARIO:

Tengo la honra de informar á Usted que habiendo comunicado al Gobierno de México la nota de Usted de 21 de Febrero próximo pasado, en respuesta á la mia de 9 de ese mes, en que avisé á ese Departamento que el Gobierno de México había dado sus instrucciones á su Comisionado en la Comisión internacional de límites, organizada conforme á la Convención de 1º de Marzo de 1889, para que procediera á la demarcación de la línea divisoria entre las poblaciones de El Paso del Norte, México, y El Paso, Texas, con extricto arreglo á dicha Convención, y aprovechando la presencia de los Comisionados en la segunda de dichas poblaciones, he recibido una comunicación del Señor Mariscal, Secretario de Relaciones Exteriores del Gobierno Mexicano, fechada en la ciudad de México el 2 del corriente, en la que se me dan instrucciones para que haga yo presento á ese Departamento que ha llamado la atención del Gobierno de México que su respuesta de Usted se refiera solo á la demarcación de la línea en los puentes internacionales, pues la autorización dada al Comisionado Mexicano

fué para demarcar la línea divisoria entre las dos poblaciones de El Paso, de cuya demarcación depende la de los puentes que las unen. El Gobierno de México tiene motivo para creer que el cauce del Rio Bravo del Norte ha cambiado en ese lugar, desde que se hizo la demarcación de límites conforme al tratado de Guadalupe Hidalgo, y la primera cuestión que hay que decidir es por donde pasa la línea divisoria entre aquellas poblaciones.

El Gobierno de México desea hacer esta explicación al de los Estados Unidos con el objeto de evitar cualquiera mala inteligencia sobre este asunto.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. WALTER Q. GRESHAM,

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[Translation.]

LEGATION OF MEXICO,

WASHINGTON, *March 12, 1894.*

MR. SECRETARY:

I have the honor to inform you that I communicated to the Government of Mexico your note of the 21st ultimo, in reply to mine of the 9th of that month, whereby I advised your Department that the Government of Mexico had instructed its Commissioner on the International Boundary Commission which was organized under the convention of March 1st, 1889, to proceed to the demarkation of the dividing line between the towns of El Paso del Norte, Mexico, and El Paso, Texas, in strict conformity with said convention, availing himself of the presence of the Commissioners in the latter of the aforesaid towns, and that I have now received a communication from Mr. Mariscal, Secretary of Foreign Relations of the Mexican Government, dated City of Mexico, March 2d, 1894, instructing me to state to this Government that the notice of the Government of Mexico was attracted by the fact that your reply refers merely to the demarkation of the line on the international bridges, whereas the authority given to the Mexican Commissioner was to demark the boundary line between El Paso del Norte, Mexico, and El Paso, Texas, on which demarkation that of the bridges connecting them depends. The Government of Mexico has reason to think that the bed of the Rio Grande has changed in that place since the boundary was determined in pursuance of the treaty of Guadalupe Hidalgo, and the

first question to be decided is where the boundary line between those towns passes.

The Government of Mexico has desired to make this explanation to that of the United States in order to prevent any misunderstanding with regard to this matter.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
etc. etc.

Mr. Uhl to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *March 13, 1894.*

Señor Don MATIAS ROMERO,
&c. &c. &c.

SIR:

I have the honor to acknowledge the receipt of your note of January 25th last, relative to the complaint of the Mexican citizen, Don Isaac Siller de las Fuentes, with reference to the action of Texas authorities affecting his property—the “bank of Santa Margarita.”

I have sent a copy of your note to the Governor of Texas, inviting proper action and a report of the matter.

Accept, &c.

EDWIN F. UHL,
Acting Secretary.

Mr. Uhl to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *March 21, 1894.*

Señor Don MATIAS ROMERO,
&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 10th instant,^a conveying to me the instructions of your Government of the 2d instant, in regard to the demarkation of the boundary line between El Paso del Norte and El Paso, Texas.

^a [The reference is evidently to the note of March 12th, printed supra, p. 890.—Agent's note.]

A copy of your note has this day been furnished the United States Commissioner of the International Boundary Commission at El Paso, Texas.

Accept, etc.

EDWIN F. UHL,
Acting Secretary.

Señor Romero to Mr. Gresham.

LEGACIÓN MEXICANA,
WASHINGTON, *Marzo 28 de 1894.*

Señor SECRETARIO: Tengo la honra de informar á Usted que he recibido instrucciones del Señor Mariscal, Secretario de Relaciones Exteriores de los Estados Unidos Mexicanos, fechadas en la Ciudad de México el 15 del corriente, para manifestar á Usted que el Gobernador del Estado de Tamaulipas ha remitido al Gobierno Mexicano un informe del Presidente Municipal de Reynosa, en el que se refieren varios hechos llevados á cabo por vecinos del Condado de Hidalgo, Texas, en un banco mexicano del Rio Bravo frente al Granjeno.

De ese informe aparece que á causa del cambio de la corriente del Rio Bravo,—que con frecuencia se repite,— un terreno situado en territorio mexicano ha venido á ser motivo de disputa por ciudadanos de las dos naciones. Los ciudadanos mexicanos Don Manuel Garza y Don Juan Garza Chavarría han estado en posesión de ese terreno á orillas del Rio Bravo desde que se les adjudicó por las autoridades de Reynosa en 1868 y no han cesado de cultivarlo, habiendo sido reconocidos como propietarios de él por los mismos ciudadanos de Texas; pero con motivo de la desviación del rio, estos tratan ahora de privar á los dueños del terreno de sus legítimos derechos, y atentados por el Juez del Condado de Hidalgo, H. William P. Dougherty, algunos ciudadanos de Texas han practicado medidas en el mencionado banco, abierto brechas y ejecutado barbechos y otros trabajos en una cerca del mismo terreno, y cuando los propietarios de este han procurado cerrar un portillo abierto en esa cerca, el Juez del Condado de Hidalgo se ha opuesto y ha amenazado con reducir á prisión á quien intentare cerrar ese portillo.

De los informes recibidos en la Secretaría de Relaciones Exteriores del Gobierno mexicano aparece que tanto los propietarios del citado banco mexicano como las autoridades de Reynosa han

procedido con la mayor prudencia y circunspección aplazando la resolución de este asunto para cuando la Comisión internacional de límites decida el punto relativo á la propiedad del expresado banco.

En este caso y conforme á la Convención de 1º de Marzo de 1889 corresponde suspender todo procedimiento hasta que la Comisión internacional creada por esa Convención, ó los Gobiernos respectivos en su caso, decidan sobre la nacionalidad del terreno en cuestion.

A las quejas y protestas de las autoridades mexicanas de Reynosa contra los actos mencionados, ha contestado la del Condado de Hidalgo negando á los propietarios del terreno su derecho al mismo y manifestando que en los Estados Unidos no se acostumbra impedir á los ciudadanos el ejercicio de sus derechos así personales como á sus propiedades, cuyas razones serían fundadas en caso de que el terreno de que se trata estuviese en territorio de los Estados Unidos; pero que estan enteramente fuera de lugar cuando conforme á lo estipulado por ambos Gobiernos todo procedimiento debe suspenderse en un terreno disputado, hasta que se decida su nacionalidad conforme á las bases acordadas.

Con este motivo el Gobierno mexicano me ha dado instrucciones para que solicite yo del Gobierno de los Estados Unidos que expida las órdenes correspondientes á las autoridades del Estado de Texas para que ellas y los vecinos del Condado de Hidalgo suspendan todo acto contra los propietarios del banco mexicano del Rio Bravo frente al Granjeno, mientras se decide la cuestión de nacionalidad, segun lo estipulado en el artículo 1º de la Convención de 1º de Marzo de 1889.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
 &c &c &c

[Translation.]

MEXICAN LEGATION,
 WASHINGTON, *March 28, 1894.*

Mr. SECRETARY:

I have the honor to inform you that I have received from Señor Mariscal, Secretary of Foreign Relations of the United Mexican States, instructions, dated at the City of Mexico the 15th of the

current month, to state to you that the Governor of the State of Tamaulipas has sent to the Mexican Government a report of the Municipal President of Reynosa, in which he relates various acts done by residents of Hidalgo County, Texas, upon a Mexican "banco" (cut-off) of the Rio Bravo (Rio Grande) in front of Granjeno.

From the report it appears that, by reason of the change of the current of the Rio Bravo—which is frequently repeated—a piece of land situated in Mexican territory has become an object of dispute between citizens of the two nations. The Mexican citizens, Don Manuel Garza and Don Juan Garza Chavarria have been in possession of this piece of land on the banks of the Rio Bravo since it was adjudicated to them by the authorities of Reynosa in 1868, and have not ceased to cultivate it, having been recognized as the owners thereof by the citizens of Texas themselves; but by reason of the deviation of the river, the latter are now endeavoring to deprive the owners of the land of their legitimate rights and, stimulated by the Judge of Hidalgo County, Honorable William P. Dougherty, several citizens of Texas have undertaken operations on the aforesaid "banco," opening breaches, plowing and doing other works within the walls of the said piece of land, and when the owners of the same attempted to close a gateway which had been opened in this wall, the Judge of Hidalgo County opposed it, and threatened with imprisonment whomsoever should attempt to close that gateway.

From the reports received in the Department of Foreign Relations of the Mexican Government, it appears that both the owners of the aforesaid Mexican "banco" and the authorities of Reynosa have proceeded with the utmost prudence and circumspection, deferring the decision of this matter until the International Boundary Commission shall have determined the point relative to the ownership of the "banco" in question.

Under these circumstances and in conformity with the Convention of March 1, 1889, it is incumbent to suspend all proceedings until the International Commission created by that convention, or the respective governments as the case may be, shall decide concerning the nationality of the piece of land in dispute.

To the complaints and protests of the Mexican authorities of Reynosa against the above-mentioned acts, the authority of Hidalgo County has replied denying to the owners of the piece of land their right to the same and stating that in the United States it is not the custom to prevent citizens from the exercise of their

rights, both personal and as touching their property; which statements would be well-grounded were the piece of land under consideration within the territory of the United States, but which are wholly out of place when, in conformity with what has been stipulated by the two governments, all proceedings are to be suspended in any disputed piece of land until the nationality thereof shall be decided conformably with the bases agreed upon.

In view of this, the Mexican Government has given me instructions to ask the Government of the United States that it shall make the proper communication to the authorities of the State, to the end that they and the residents of Hidalgo County shall suspend all acts against the owners of the Mexican "banco" in the Rio Grande in front of El Granjeno until the question of the nationality shall be decided according to the stipulations of the 1st article of the Convention of March 1, 1889.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Honorable WALTER Q. GRESHAM,
etc. etc.

Mr. Uhl to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *March 30, 1894.*

Señor Don MATIAS ROMERO,
&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 28th instant, relative to the desirability of checking a certain controversy which has arisen concerning a "banco" in the Rio Grande, in front of El Geanjero until the Water Boundary Commission can decide the nationality of the same.

I have brought the matter to the attention of the Governor of Texas.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

Señor Romero to Mr. Gresham.

LEGACIÓN MEXICANA,
WASHINGTON *Mayo 26 de 1894.*

Señor SECRETARIO:

Tengo la honra de informar á Usted que el Señor Mariscal, Secretario de Relaciones Exteriores de los Estados Unidos Mexicanos,

me avisa en nota fechada en la Ciudad de México el 16 del corriente, que el día anterior fué nombrado el Señor Licenciado Don Francisco J. Osorno, Comisionado de México en la Comisión internacional de límites entre México y los Estados Unidos, en sustitución del Señor Don José María Canalizo, quien por enfermedad no puede continuar desempeñando dicho cargo.

El Señor Mariscal me encarga comunique al Gobierno de los Estados Unidos ese nombramiento y le manifieste que muy pronto saldrá el Señor Osorno de la Ciudad de México para encargarse de su empleo.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
etc. etc. etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *May 26, 1894.*

Mr. SECRETARY:

I have the honor to inform you that Señor Mariscal, Secretary of Foreign Relations of the United States of Mexico notifies me, in a note dated City of Mexico the 16th instant, that on the day previous Señor Licentiate Don Francisco J. Osorno was appointed Mexican Commissioner of the International Mexican and United States Boundary Commission, in the place of Señor Don José María Canalizo, who on account of sickness cannot continue to fulfil the duties of that office.

Señor Mariscal instructs me to communicate this appointment to the Government of the United States and to state that Señor Osorno will very soon leave the City of Mexico, to take charge of said office.

Accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
etc. etc.

Mr. Gresham to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *May 28, 1894.*

Señor DON M. ROMERO,
 &c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 26th instant, informing me that your Government has appointed Señor Licentiate Don Francisco J. Osorno Commissioner on the International Mexican and United States Boundary Commission in place of Señor Don Maria Canalizo, who is unable to continue the duties of the office on account of ill health.

Similar information has been received by telegraph from the Minister of the United States in the City of Mexico.

Accept, etc.

W. Q. GRESHAM.

Señor Romero to Mr. Gresham.

LEGACIÓN MEXICANA,
WASHINGTON, *Junio 30 de 1894.*

Señor SECRETARIO: Tengo la honra de informar á Usted que he recibido instrucciones del Gobierno de México para recomendar al de los Estados Unidos que expida de nuevo las instrucciones que crea convenientes y queden por resultado la libertad del ciudadano mexicano Antonio H. Vela y el respeto al statu-quo acerca del banco en el rio Bravo, que lleva el nombre de Banco Cuanhtemoc ó Banco Vela, segun he recomendado con anticipación, mientras se decide por ambos Gobiernos, de conformidad con las prevenciones de la Convención vigente, respecto de la nacionalidad de aquel territorio.

El Cónsul de México en Brownsville, Texas, avisa al Secretario de Relaciones Exteriores de los Estados Unidos Mexicanos, con fecha 12 del que finaliza, que Vela había sido citado por la Corte Federal en aquel lugar y que había sido arrestado y conducido a la cárcel.

El Presidente de la Corte Federal informó, además, al Cónsul mexicano que no tenía conocimiento ninguno de que ese Departamento hubiera acordado medida alguna respecto de este asunto.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
 Etc., Etc., Etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *June 30, 1894.*

Mr. SECRETARY:

I have the honor to inform you that I have received directions from the Government of Mexico to recommend to that of the United States to issue anew such instructions as it may deem proper in regard to the release of the Mexican citizen Antonio H. Vela, and the observance of the statu quo with respect to the Bank in the river Bravo which bears the name of "Banco Cuantitemoc" or "Banco Vela," as I recommended beforehand pending the decision of both Governments, in conformity with the provisions of the convention in force in regard to the nationality of that territory.

The Mexican Consul at Brownsville, Texas, informs the Secretary of Foreign Relations of the Mexican United States under date 12th of the concluding month, that Vela had been summoned by the Federal Court in that place and that he had been arrested and taken to jail.

The President of the Federal Court further informed the Mexican Consul that he had no knowledge whatever that your Department had taken any measure respecting that matter.

Accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

WALTER Q. GRESHAM, *etc., etc., etc.,*

Señor Romero to Mr. Gresham.

LEGACIÓN MEXICANA,
WASHINGTON, *Julio 2 de 1894.*

Señor SECRETARIO:

Tengo la honra de informar á Usted que el Señor Mariscal, Secretario de Relaciones Exteriores de los Estados Unidos Mexicanos me avisa por el cable que el Presidente de México desaprobó el acuerdo de la Comisión internacional de límites para fijar la línea divisoria en los puentes sobre el río Bravo, y que por el correo se me mandan informes detallados sobre este asunto.

Tan luego como reciba esos informes tendré la honra de comunicarlos á Usted.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
etc. etc. etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *July 2, 1894.*

Mr. SECRETARY:

I have the honor to inform you that Señor Mariscal, Secretary for Foreign Affairs of the United Mexican States, notifies me by cable that the President of Mexico disapproves the decision of the International Boundary Commission in fixing the dividing line on the bridges over the river Bravo, and has sent me by mail a detailed report on the subject.

Immediately on the receipt of these particulars I shall have the honor to communicate them to you.

Accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. WALTER Q. GRESHAM,
&c, &c, &c.

Mr. Gresham to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *July 5, 1894.*

Señor Don M. ROMERO.

&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 30th ultimo, requesting the release of Antonio H. Vela and the maintenance of the *Statu quo* in respect to the "Banco Vela" until the Nationality of that territory be adjusted by the International Boundary Commission.

The matter has been brought to the attention of the Governor of Texas for appropriate action. Upon the receipt of his reply you will be informed of its purport.

Accept, &c.

W. Q. GRESHAM.

Señor Romero to Mr. Gresham.

LEGACIÓN DE MÉXICO,
WASHINGTON, *Julio 9 de 1894.*

Señor SECRETARIO:

Tengo la honra de remitir á Usted, refiriéndome á mi nota de 2 del corriente, respecto de la demarcación de la línea divisoria en los puentes sobre el Rio Bravo entre Paso del Norte, México, y El Paso, Texas, copia de una comunicacion que el Sr. Mariscal, Secretario de Relaciones Exteriores de los Estados Unidos Mexicanos, dirigió el 29 de Junio próximo pasado al Sr. Don Francisco Javier Osorno, Comisionado de México en la Comisión Internacional de Límites con los Estados Unidos, que contiene las razones en que se fundó el Gobierno Mexicano para desaprobare la designacion provisional de la línea divisoria hecha por ambos Comisionados en aquellos puentes.

Expresándose ampliamente en esa comunicacion las razones que me parecen incontestables y que determinaron al Gobierno de México á adoptar la resolucion expresada, no creo necesario decir nada más respecto de este asunto.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Anexo: Copia de comunicacion del Sr. Mariscal al Sr. Osorno, Junio 29 de 1894.

HON. WALTER Q. GRESHAM,
etc. etc. etc.

[Inclosure.]

SECRETARÍA DE ESTADO Y DEL DESPACHO DE
RELACIONES EXTERIORES. MÉXICO.

MEXICO, *Junio 29 de 1894.*

Dí cuenta al Señor Presidente de la República de la nota de Usted, número 16, fechada el 22 del corriente, con el acta de la Comisión internacional de límites, en la que se fija provisionalmente la linea divisoria en los tres puentes que atraviesan el Rio Bravo del Norte, llamados puentes internacionales de El Paso, mientras se obtiene la aprobación de ambos gobiernos.

Para resolver este asunto, se ha tenido en consideración: 1º Que el tratado de 1º de Marzo de 1889 no confiere á la Comisión la facultad de celebrar arreglos provisionales, pues conforme á sus

artículos 1º, 4º y 5º solo está facultada para dirimir las cuestiones que se susciten respecto de la linea divisoria por el cambio de cauce de los rios Bravo y Colorado cuando le sean sometidos debidamente: 2º Que aunque se propuso por parte de los Estados Unidos que se autorizara á la Comisión para marcar la linea media á través de los mencionados puentes, el Gobierno de México no aceptó esa propuesta, limitándose á autorizar á su Comisionado para la demarcación de la linea divisoria entre Ciudad Juarez y El Paso de Texas, con extricto arreglo á la Convención de 1º de Marzo de 1889, por tener que decidirse antes si los puentes se hallan sobre la linea divisoria reconocida en los tratados; y así se hizo saber al Gobierno de los Estados Unidos, para evitar cualquiera mala inteligencia futura sobre el asunto: 3º Que el artículo 4º de la primera de las citadas Convenciones, en el que equivocadamente se ha querido fundar el trazo de dicha linea, es inaplicable al caso, por no autorizar una demarcación provisional, sino definitiva, en el concepto de que los puentes sean verdaderamente internacionales por haberse construido sobre los límites ciertos determinados por los rios; y 4º Que habiendo presentado formalmente una reclamación el Ciudadano Pedro Y. García, alegando que un terreno llamado El Chamisal, perteneciente á Ciudad Juarez, se unió á terrenos de los Estados Unidos por un violento cambio del curso del Rio Bravo, para que se declare que pertenece todavía á México, la Comisión debe examinar y decidir ese caso, y como consecuencia de la decisión, y no antes, fijar la linea divisoria entre Ciudad Juarez y El Paso de Texas.

Por las razones expuestas, el Presidente de la República ha acordado que no es de aprobarse la designación provisional de la linea divisoria, que se ha hecho en los referidos puentes, y que se notifique este acuerdo á la Comisión internacional de límites por conducto de Usted, y al Gobierno de los Estados Unidos de América por medio de nuestra Legación en Washington, á fin de que tenga por nula y de ningun valor la demarcación referida.

Reitero á Usted mi consideración.

(firmado)

MARISCAL.

Señor Lic. Don FRANCISCO JAVIER OSORNO,

etc. etc. etc.

Es copia: Washington, Julio 9 de 1894.

M. COVARRUBIAS.

[Translation.]

LEGATION OF MEXICO.

WASHINGTON, *July 9, 1894.*

Mr. SECRETARY,

I have the honor to forward to you, with reference to my note of the 2nd instant, in regard to marking the boundary line on the bridges over the River Bravo between Paso del Norte, Mexico, and El Paso, Texas, copy of a communication that Señor Mariscal, Secretary of Foreign Relations of the Mexican United States addressed on the 29th June last, to Señor Don Francisco Javier Osorno, Mexican Commissioner on the Mexican and United States International Boundary Commission, which contained the grounds of the disapproval by the Government of Mexico of the provisional designation by both Commissioners, of the boundary line on those bridges.

As this communication fully states these grounds, which to me appear unanswerable, and which determined the Government of Mexico to adopt the decision stated, I do not think it necessary to say more on this subject.

Accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Enclosure: Copy of communication from Señor Mariscal to Señor Osorno, June 29, 1894.

Hon. WALTER Q. GRESHAM,

C^c, C^c, C^c.

[Inclosure.]

[Translation.]

MINISTRY OF STATE AND OFFICE
OF FOREIGN RELATIONS—MEXICO.

MEXICO, *June 29, 1894.*

I reported to the President of the Republic your Note, No 16, dated the 22d instant, with the proceeding of the International Boundary Commission which temporarily fixes the dividing line on the three bridges which cross the River Bravo del Norte, called international bridges of El Paso,—pending the approval of the two Governments.

In order to decide this matter, it has been considered:

1st. That the treaty of March 1st, 1899, does not confer upon the Commission the power to make temporary regulations, as, in accordance with its Articles 1, 4 and 5,—it has only the power to

adjust questions which arise respecting the dividing line on account of the changes in the channel of the rivers Bravo and Colorado, when duly submitted to it:—2d. That although it was proposed on the part of the United States that the Commission should be authorized to mark the line across the middle of the said bridges, the Government of Mexico did not accept the proposition, confining itself to authorizing its commission to mark the dividing line between Juarez City and El Paso, Texas, in strict accordance with the treaty of March 1st, 1889, it having first to be decided if the bridges are upon the dividing line recognized in the treaties; and thus it was made known to the Government of the United States, to avoid all future misunderstanding whatever in the matter: 3rd. That Article 4 of the first of the mentioned treaties, on which it has been erroneously desired to base the tracing of said line, is inapplicable to the case, through not authorizing a temporary but a definitive demarkation, in the opinion that the bridges are truly international, they having been constructed on the true boundaries, determined by the rivers; and 4th, that Citizen Pedro Y. Garcia having formally presented a claim, alleging that land called “El Chamisal,” belonging to Juarez City became joined to lands of the United States through a violent change in the course of the river Bravo, in order that it may be declared to belong still to Mexico, the Commission must examine and decide that case, and consequent upon the decision, not before to settle the dividing line between Juarez City and El Paso, Texas.

For the reasons set forth, the President of the Republic has decreed that the temporary designation of the boundary line which has been made on the bridges referred to, is not approved; and that this decision be notified to the International Boundary Commission by you, and to the Government of the United States of America through our legation at Washington, in order that it may consider null and void the demarkation referred to.

I renew to you my consideration

MARISCAL.

Don Señor Lic. FRANCISCO JAVIER OSORNO,
etc, etc, etc.

Copy. Washington, July 9, 1894.

M. COVARRUBIAS.

Mr. Gresham to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *July 14, 1894.*

Señor Don M. ROMERO,
 &c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your two notes, dated the 2d and 9th instant respectively reporting your Government's disapproval of the decision of the International Boundary Commission fixing the dividing line on the bridges over the River Bravo, I have made their contents known to the United States Commissioners.

Accept, Sir, &c.

W. Q. GRESHAM.

Mr. Uhl to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *May 3, 1895.*

Mr. MATIAS ROMERO.
 &c. &c. &c.

SIR:

I have the honor to acknowledge receipt of your notes of October 23, 1894, and April 30, 1895,^a in further relation to the claim of J. Nepomuceno Ornelas and other Mexican citizens for compensation in the matter of the seizure of certain cattle by the United States Collector of Customs at El Paso, Texas, in 1891.

In the note of October last, you referred to the Department's note to you of July 25 previous as an offer of the sum of \$391 in payment of the claim; and I must, before proceeding further, remind you that that note did not contain an offer to pay the amount named, but only an offer of the Treasury Department to recommend to Congress an appropriation for its payment. You, however, stated that \$391 was deemed both by the parties interested and by the Mexican Government to be insufficient, and you enclosed an itemized statement of the claimants, fixing their damages at \$8,362, observing that your Government does not deem this excessive.

On the 21st of November last, a copy of your note, in translation, was forwarded to the Secretary of the Treasury. I am now in

^a [Previous correspondence in regard to this matter is omitted as unnecessary to the understanding of questions relevant to the present proceedings.—Agent's note.]

receipt of Acting Secretary Hamlin's reply of the 20th ultimo. He observes that the claim of the Mexican Government in this case rests exclusively on the contention that the seizure of the cattle was made on Mexican soil, and it was therefore unlawful.

The original Mexican investigation upon which Mr. Mariscal depends in claiming that the seizure took place on Mexican soil controverted the Treasury investigation made by Special Agent Irwin. Since then the thorough investigation by Special Agent McCoy confirms the fact of the seizure having been effected within the territorial boundary of the United States, and nothing in your note of October 23 is found to contest the result of Mr. McCoy's investigation save Mr. Mariscal's instruction to you, under date of October 12th directing you "to maintain that the arrest of the herders and the seizure of the cattle took place on our (Mexican) soil."

Under all the circumstances, and especially the evidence taken by the Treasury Department during the later examination to which I have referred, clearly establishes the fact that the seizure was made on United States territory and was strictly in accordance with law, the Department finds itself unable to admit the validity of the claim. Even were the seizure proved to have been made outside the jurisdiction of the United States, or otherwise illegally, this Government could not admit the correctness of the claim as presented. Especially it is noted that more than one half of it is for "loss accruing from the failure of the yield which would have been rendered by the 72 head of cattle in three years from the time of confiscation." No such merely speculative estimate as this could properly enter into the claim, even if otherwise just.

I can, therefore, only repeat in substance what was said in the Department's note to you of July 25 last,—that: since there is no evidence of intentional violation of our laws by the claimants, the Treasury Department is willing to recommend to Congress at its next session an appropriation for their benefit of \$391, the appraised value of the cattle.

I am, &c. &c.

EDWIN F. UHL
Acting Secretary.

Mr. Adee to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *July 23, 1895.*

Señor Don MATIAS ROMERO,
 &c., &c., &c.

SIR:

I have the honor to apprise you of the receipt of a letter of the 17th instant from Colonel Anson Mills, U. S. A., Commissioner on the part of the United States under the treaties of 1884 and 1889 with Mexico, in which he encloses an extract from the journal of the Joint Commission of that date, requesting such extension of the time of the Commission as may be deemed proper. The extract reads as follows:

“The Joint (Water) Boundary Commission between the United States and Mexico, being in session, begs respectfully to call the attention of the Governments which it represents, to the fact that the treaty of 1889, under which it was organized, provided only for its continuance until December 26th proximo, and as it will be unable to complete the cases already submitted to it in that time, it respectfully requests that arrangements be made, for its continuance for such additional length of time as may seem proper.”

I doubt not your Government is in receipt of a similar statement through its Commissioner.

By reference to Article IX of the treaty concluded at Washington March 1, 1889, it will be perceived that it, “shall be in force from the date of the exchange of ratifications for a period of five years.”

The exchange of ratifications took place December 24, 1890, and the treaty expires by limitation, December 24, 1895.—not December 26 as mentioned in the extract.

Under these circumstances, I shall be glad to be advised of the disposition of the Mexican Government in reference to a conventional extension of the time for an additional year from December 24th next.

Enclosing for your further information, copies of the treaties in question I beg you will

Accept, &c., &c.,

ALVEY A. ADEE,
Acting Secretary.

Enclosures: Copies of treaties of Nov. 12, 1884, and March 1, 1889.^a

^a[Enclosures omitted. For text of these treaties see pp. 67 and 72 supra.—Agent's note.]

Señor Romero to Mr. Olney.

LEGACIÓN MEXICANA,
WHITE PLAINS, N. Y.,
Julio 25 de 1895.

Señor SECRETARIO:

He tenido la honra de recibir la nota de ese Departamento, número 32 de 23 del corriente en la que se me pregunta cual es la disposicion del Gobierno de México respecto de prorrogar por un año el plazo fijado en la Convención de 1º de Marzo de 1889, para que funcione la Comision Mixta de Límites fluviales creada por ella, en virtud de no poder concluir los trabajos de que está encargada antes del 24 de Diciembre próximo en que expira el plazo de aquella convención, y de conformidad con la recomendación hecha por los dos Comisionados.

Tengo la honra de informar á Usted en respuesta que ya trasmito á mi Gobierno la copia de la nota citada de ese Departamento para que acuerde lo que estime conveniente en vista de la indicación que ella contiene.

Sírvase usted aceptar, Señor Secretario, las seguridades de mi mas distinguida consideración.

M. ROMERO.

Hon. RICHARD OLNEY,
etc. etc. etc.
Washington, D. C.

[Translation.]

MEXICAN LEGATION
WHITE PLAINS, NEW YORK, *July 25, 1895.*

MR. SECRETARY:

I have had the honor to receive the note of that Department, No. 32 of the 23rd instant, in which I am asked what the disposition of the Mexican Government is with respect to extending for one year the period fixed in the Convention of March 1, 1889, for the operation of the Mixed River Boundary Commission, created by it, for the reason that it is unable to conclude the labors entrusted to it before December 24 next, on which date the period of said Convention expires, and in conformity with the recommendations made by the two Commissioners.

I have the honor to inform you, in reply, that I have already transmitted to my Government the copy of the aforementioned note of your Department, in order that it may reach such decision

as it may deem proper in regard to the suggestion contained therein.

Please accept, Mr. Secretary, the assurances of my distinguished consideration

M. ROMERO

Honorable RICHARD OLNEY,

etc., etc., etc.

Washington, D. C.

Señor Romero to Mr. Olney.

LEGACIÓN MEXICANA,

WHITE PLAINS, N. Y.,

Agosto 12 de 1895.

Señor SECRETARIO:

Tengo la honra de informar á Usted refiriéndome á la nota de ese Departamento, número 32, del 23 de Julio próximo pasado, que he recibido instrucciones de mi Gobierno para convenir con el de los Estados Unidos de América en la prorroga, por un año, del plazo fijado en la Convención de 1° de Marzo de 1889 que terminará el 24 de Diciembre próximo, á fin de que la Comisión Internacional de Límites pueda terminar el examen y resolución de los casos que se le han sometido, y de conformidad con la recomendación que hizo la Comisión expresada á ambos Gobiernos en la sesión que celebró en San Antonio, Texas, el 17 de Julio próximo pasado.

En consecuencia de esto, si en ese Departamento se prepara el texto ingles de la nueva Convención, yo formularé el español y estaré dispuesto á firmar la Convención respectiva cuando se me avise que esten listos los ejemplares en limpio de la mismo.

Sírvase usted aceptar, Señor Secretario, las seguridades de mi mas distinguida consideración.

M. ROMERO.

Hon. RICHARD OLNEY,

etc. etc. etc.

Washington, D. C.

[Translation.]

MEXICAN LEGATION

WHITE PLAINS, N. Y. *August 12, 1895.*

Mr. SECRETARY:

I have the honor to inform you, in reference to note No. 32 of that Department, under date of July 23 last, that I have received instructions from my Government to agree with the Government

of the United States of America on the extension, for one year, of the period fixed in the Convention of March 1, 1889, which is to terminate on December 24 next in order that the International Boundary Commission may conclude the examination and decision of the cases that have been submitted to it, and in conformity with the recommendation which was made by the said Commission to both Governments in the session which was held in San Antonio, Texas, on July 17th last past.

Consequently, if the English text of the new Convention is prepared in that Department, I will draw up the Spanish text and shall be ready to sign the Convention when notified that the fair copies thereof are ready.

Please accept, Mr. Secretary, the assurances of my distinguished consideration

M. ROMERO

Honorable RICHARD OLNEY

etc., etc., etc.,

Washington, D. C.

Mr. Adee to Señor Romero.

DEPARTMENT OF STATE,

WASHINGTON, *Sept. 6, 1895.*

Señor DON MATIAS ROMERO,

&c., &c., &c.

SIR:

I have the honor to enclose for your consideration having reference to your note of the 12th ultimo, a draft of the proposed Convention extending for the period of one year, from December 24, 1895, the provisions of the Convention of March 1, 1889, between the United States and Mexico in order that the International Boundary Commission may conclude the examination and decision of the cases submitted thereto.

If this draft meets with your approval, and you will have the kindness to furnish me with the equivalent Spanish text, it will give me pleasure to have the Convention engrossed in duplicate for signature at an early date.

Accept, &c.,

ALVEY A. ADEE,

Acting Secretary.

Enclosure: Draft of proposed Treaty.^a

^a [Inclosure omitted. For text of this treaty as ratified by the two Governments, which is the same as the draft inclosed in this note, see p. 79, supra.—Agent's note.]

Señor Romero to Mr. Olney.

LEGACIÓN MEXICANA,
NEUVA YORK, *Septiembre 10 de 1895.*

Señor SECRETARIO:

Tengo la honra de acusar recibo de la nota de ese Departamento, Número 41, de 6 del corriente, con la cual se me manda, con referencia á mi nota de 12 de Julio próximo pasado, un proyecto de Convención para prorrogar por un año que comenzará el 24 de Diciembre de 1895, las estipulaciones de la Convención de 1º de Marzo de 1889 entre los Estados Unidos Mexicanos y los Estados Unidos de América, con objeto de que la Comisión internacional de límites pueda concluir el examen y decisión de los casos que se le han sometido.

Encuentro que el proyecto presentado por ese Departamento lleva el objeto que se proponen ambos Gobiernos, y de conformidad con la recomendación contenida en la nota de ese Departamento, acompaño^a el texto español de la Convención y estaré dispuesto á firmarla tan luego como se preparen los ejemplares en limpio.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. RICHARD OLNEY,

etc. etc. etc.

Washington, D. C.

[Translation.]

MEXICAN LEGATION
NEW YORK, *September 10, 1895.*

Mr. SECRETARY:

I have the honor to acknowledge the receipt of note No. 41 of your Department, dated the 6th instant, in which I am sent, with reference to my note of July 12 last, a draft of a Convention to extend for one year, from December 24, 1895, the stipulations of the Convention of March 1, 1889, between the United Mexican States and the United States of America, for the purpose of enabling the International Boundary Commission to conclude the examination and decision of the cases that have been submitted to them.

I find that the draft presented by that Department covers the object proposed by both Governments, and in accordance with the

^a [Inclosure omitted.—Agent's note.]

recommendation contained in the note of that Department, I enclose^a the Spanish text of the Convention and shall be ready to sign it as soon as the fair copies are prepared.

Please accept, Mr. Secretary the assurances of my distinguished consideration.

M. ROMERO.

Honorable RICHARD OLNEY
etc., etc., etc.,

Mr. Olney to Señor Romero.

No. 44

DEPARTMENT OF STATE,
WASHINGTON, *Sept. 16, 1895.*

Senor Don M. ROMERO,
&c., &c., &c.

SIR: I have the honor to transmit herewith copy of the printed Reports and Decisions of the International (Water) Boundary Commission with maps compiled from surveys made by the engineers of the Commission.

Accept, &c., &c., &c.

RICHARD OLNEY.

Señor Romero to Mr. Olney.

LEGACIÓN MEXICANA,
WASHINGTON, *Septiembre 18 de 1895.*

Señor SECRETARIO:

He tenido la honra de recibir, con la nota de Usted, No. 44, de 16 del corriente, el ejemplar impreso que se sirvió Usted acompañar de las memorias y decisiones de la Comisión Internacional de Límites (fluviales), con los mapas formados en virtud de los reconocimientos hechos por los Ingenieros de la Comisión.

Mucho agradezco á Usted el envío de ese ejemplar que remito ya á mi Gobierno para su conocimiento.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO

Hon. RICHARD OLNEY,
&c. &c. &c.

^a [Inclosure omitted.—Agent's note.]

[Translation.]

MEXICAN LEGATION

WASHINGTON, *September 18, 1895.*

Mr. SECRETARY:

I have had the honor to receive, with your note No. 44 of the 16th instant, the printed copy of the records and decisions of the International (Water) Boundary Commission, which you were pleased to enclose therein, together with the maps made from the surveys conducted by the Engineers of the Commission.

I thank you very much for sending me the said copy which I am now forwarding to my Government for its information.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. RICHARD OLNEY
&c. &c. &c.

Mr. Olney to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *Sept. 30, 1895.*

Señor Don M. ROMERO,
&c., &c., &c.

MY DEAR MR. ROMERO:

If you can find it convenient to call at the Department tomorrow (Tuesday) morning at eleven o'clock, I will then be ready to sign with you the Convention, extending that of March 1, 1889, in relation to the water boundary between the United States and Mexico, for one year from December 24, 1895.

Very truly yours,

RICHARD OLNEY.

Mr. Olney to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *Dec. 5, 1895.*

Señor Don M. ROMERO,
&c., &c., &c.

SIR:

I have the honor to transmit under separate cover the below described papers relating to the work of the International (Water) Boundary Commission.

Accept, &c.,

RICHARD OLNEY.

Accompaniments: Special report of the U. S. Commissioner covering Report of the Joint Commission on the Bancos known

as "El Banco de Vela" "El Banco de Granjeno" "El Banco de Camargo" and "El Banco de Santa Margarita" (2 copies).

Probable decisions in the case of each of these Bancos (2 copies of each).

Señor Romero to Mr. Olney.

LEGACION MEXICANA,
WASHINGTON, *Diciembre 5 de 1895.*

Señor SECRETARIO:

He tenido la honra de recibir con la nota de Usted numero 67. de hoy, dos ejemplares del informe especial del Comisionado de los Estados Unidos en la Comisión Internacional de límites organizada conforme á la Convención de 1º de Marzo de 1889, respecto de las cuestiones suscitadas en los bancos de "Camargo," "Vela," "Granjeno" y "Santa Margarita" en el bajo Rio Grande, y del proyecto de decisión en cada uno de esos casos.

Sírvase Usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideración.

M. ROMERO.

Hon. RICHARD OLNEY,
&. &. &.

[Translation.]

MEXICAN LEGATION.
WASHINGTON, *December 5, 1895.*

Mr. SECRETARY:

I have had the honor to receive with your note of today, No. 67, two copies of the special report of the United States Commissioner on the International Boundary Commission, organized in conformity to the convention of March 1st, 1889, with respect to the disputes that had arisen in regard to the sand banks (bancos) at "Camargo," "Vela," "Granjeno," and "Santa Margarita" in the lower Rio Grande, and of a draft of the decision in each one of those cases.

Accept, &c,

M. ROMERO.

Hon. RICHARD OLNEY,
&c, &c, &c.

Señor Romero to Mr. Olney.

LEGACIÓN MEXICANA

WASHINGTON, *Diciembre 12 de 1895.*

Señor SECRETARIO,

Tengo la honra de informar á usted que el Senado de los Estados Unidos Mexicanos aprobó el 28 de Octubre próximo pasado la convención firmada en esta ciudad el 1° del mismo mes, entre México y los Estados Unidos de América, para prorrogar por un año el plazo fijado en el artículo 9° de la de 1° de Marzo de 1889 para que funcione la Convención internacional de Límites fluviales, y que habiendo sido ratificada aquella Convención por el Presidente de los Estados Unidos Mexicanos el 5 de Noviembre próximo pasado, se me ha mandado el ejemplar destinado al canje.

Agradeceré á Ud, por lo mismo, que cuanto el Senado de los Estados Unidos aprobare dicha Convención, si llegare á hacerlo así, y haya sido ratificada por el Presidente se sirva usted avisármelo, para proceder al canje de las ratificaciones, con cuyo objeto he recibido del Gobierno de México el respectivo Pleno Poder.

Sírvase usted aceptar, Señor Secretario, las seguridades de mi mas distinguida consideración.

M. ROMERO.

Hon. RICHARD OLNEY

etc etc etc.

[Translation.]

MEXICAN LEGATION,

WASHINGTON, *December 12, 1895.*

Mr. SECRETARY:

I have the honor to inform you that the Senate of the United Mexican States approved on October 28th last the Convention signed in this city on the 1st of said month, between Mexico and the United States of America, for the purpose of extending for one year the period fixed in Article IX of the Convention of March 1, 1889, during which the International River Boundary Convention was to operate, and that, said Convention having been ratified by the President of the United Mexican States on November 5 last, the copy thereof intended for exchange has been sent to me.

I should be obliged to you, therefore, if you would let me know when the Senate of the United States approves this Convention, if it does so, and when it has been ratified by the President, so that the exchange of ratifications may be made, for which pur-

pose I have received the proper full power from the Mexican Government.

Please accept, Mr. Secretary the assurances of my distinguished consideration.

M. ROMERO

Honorable RICHARD OLNEY

etc., etc., etc.

Mr. Olney to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *December 20, 1895.*

Señor Don MATIAS ROMERO,

&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 12th instant, announcing your readiness to effect with me the exchange of ratifications of the Convention signed in this city, October 1, 1895, extending for a period of one year from the 24th instant, the duration of the Convention between the United States and Mexico of March 1, 1889, concerning the water boundary between the two countries.

The Senate having advised and consented to the ratification of the Convention mentioned, I shall take pleasure in effecting with you the necessary exchange of ratifications thereof on Saturday next, the 21st instant, at 12 o'clock M., if you will have the kindness to call at the Department on that day and hour.

Accept, etc., etc.,

RICHARD OLNEY.

Señor Romero to Mr. Olney.

LEGACIÓN MEXICANA
WASHINGTON, *Diciembre 20 de 1895.*

Señor SECRETARIO:

He tenido la honra de recibir la nota de usted de esta fecha en la que, con referencia á la mia de 12 del corriente, en que avisé á usted que el Senado Mexicano aprobó y el Presidente la República ratificó la Convencion de 1° de Octubre último, que prorroga por un año el plazo fijado por la de 1° de Marzo de 1889 para que funcione la Comisión Internacional de Límites fluviales entre México y los Estados Unidos, se sirve usted informarme que el Senado de los Estados Unidos, aprobó tambien aquella convencion y que, en consecuencia, estará usted dispuesto á efectuar el cange de sus ratificaciones, mañana Sábado 21 del corriente, á las doce del dia.

De conformidad con los deseos de usted concurriré á esa Departamento en la fecha y á la hora fijadas con el objeto de verificar ese canje.

Sirvase usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideracion.

M. ROMERO.

Hon. RICHARD OLNEY,
 &c. &c. &c.

[Translation.]

MEXICAN LEGATION,
 WASHINGTON, *December 20, 1895.*

Mr. SECRETARY:

I have had the honor to receive your note of this date in which, with reference to mine of the 12th current, in which I informed you that the Mexican Senate approved and the President of the Republic ratified the Convention of October 1st last, which extended for a year the period fixed by that of March 1, 1889, in order that the International Commission of River Boundaries between Mexico and the United States may conclude its labors, you are pleased to inform me that the Senate of the United States, also approved that Convention and that, in consequence you will be ready to effect the exchange of ratifications to-morrow Saturday 21st of the current, at twelve o'clock.

In conformity with your desires I will be at that Department at the date and at the hour fixed for the purpose of verifying this exchange.

Please accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. RICHARD OLNEY,
etc., etc., etc.

Mr. Olney to Señor Romero.

DEPARTMENT OF STATE,
 WASHINGTON, *February 29, 1896.*

Señor Don MATIAS ROMERO,
 &c., &c., &c.

SIR:

A Report made to this Department on the 15th of January, 1895, by Colonel Anson Mills, Commissioner of the United States under the International Water Boundary Conventions of 1884 and 1889,

stated at some length the difficulties which the Mexican Commissioner and himself had encountered in applying the provisions of those Conventions to questions affecting the numerous isolated "bancos" on either side of the present channel of the Rio Grande from El Paso to the sea, and more especially below Rio Grande City. From that point to the Gulf, which is 108 miles in a straight line although over 240 miles when following the river course, the channel passes through alluvial lowlands of such fragile consistency and slight fall, that the stream is subject to constant changes by erosion and accretion, forming curves which eventually become cut off by avulsion and later isolated from the river channel by further accretions. In such cases as that of the Banco de Vela the cession of the river leaves the cut off tract surrounded by domain and people under a different jurisdiction, isolating it completely and raising questions of right of access. In other cases alternate processes of erosion, avulsion and accretion cut away a banco so made and afterwards may again isolate a part of it so that territories open to dispute may in future overlap each other, while the title to the overlapping portion may be coincidently determinable according to the two distinct rules of law laid down in the Conventions. The complexity of the problems thus presented and the great time and expense which a determination of the boundaries of each banco would entail upon the two governments, have led the Commissioners to present these facts for the consideration of the respective governments, with a suggestion that they may wish to amend Articles 1 and 2 of the Convention of 1884 so that any banco having less frontage on the river's current than it has depth from the river shall not be considered as an avulsive change as contemplated in the Convention, but that in such cases the Commission should be authorized to announce the transfer of jurisdiction to the country in which such banco shall be left by the avulsive change.

These considerations are more fully set forth in a joint statement dated January 15, 1895, signed by the American and Mexican Commissioners, of which a copy was to be communicated to each Government with the report of its respective Commissioner. The suggestion of the Commissioners is therefore presumably under consideration by your Government, as it has been for some time by this Government.

I am inclined to think that the recommendations of the Commissioners, reached on the spot, after prolonged examination and

consideration of the almost insuperable difficulties in the way of literally and exactly carrying out the provisions of the existing Water Boundary Conventions, are entitled to great weight; and I doubt not that your Government shares in this view. I am inclined also to believe that the proposed amendment of the existing stipulations would be in the interest of fraternity and good will between the two countries, removing occasions for jurisdictional disputes and destroying the frequent opportunities now offered by the isolation of these small areas of alien domain for the operations of evil doers who are alike secure from the operations of the laws of the surrounding territory and enjoy practical immunity from the enforcement of the laws of the country to which such bancos now belong.

It has seemed to me, therefore expedient to invite the attention of your Government to the matter by submitting a tentative draft of an amendatory Convention embracing a single article framed in accordance with the recommendations of the International Water Boundary Commissioners.

I shall be pleased to learn that this suggestion is regarded by your Government also as furnishing a basis for a satisfactory and mutually beneficent arrangement.

Accept, etc., etc.

RICHARD OLNEY.

Enclosure: Draft of Convention.^a

[Inclosure 1.]

Whereas a Convention between the United States of America, and the United States of Mexico, touching the boundary line between the two countries where it follows the bed of the Rio Grande and the Rio Colorado, to avoid difficulties which may arise through the changes of channel to which those rivers are subject through the operation of natural forces, which Convention was duly signed by their respective Plenipotentiaries at Washington on the twelfth day of November, one thousand eight hundred and eighty-four, and duly ratified by the two governments in the city of Washington, on the thirteenth day of September, one thousand eight hundred and eighty-six, by which Convention it was stipulated in Articles I and II hereof as follows:

“The dividing line shall forever be that described in the aforesaid Treaty, and follow the center of the normal channel of the

^a [For text of this treaty as ratified by the two Governments, see *supra*, p. 85.—Agent's note.]

rivers named, notwithstanding any alterations in the banks or in the course of those rivers; provided that such alterations be effected by natural causes through the slow and gradual erosion and deposit of alluvium and not by the abandonment of an existing river bed and the opening of a new one."

"Any other change, wrought by the force of the current, whether by the cutting of a new bed, or when there is more than one channel by the deepening of another channel than that which marked the boundary at the time of the survey made under the aforesaid Treaty, shall produce no changes in the dividing line fixed by the Surveys of the International Boundary Commission in 1852; but the line then fixed shall continue to follow the middle of the original channel bed, even though this should become wholly dry or obstructed by deposits.

And Whereas, it has been discovered by the present International Boundary Commission in its efforts to fix and mark the Boundary abandoned by the Rio Grande in the class of changes last before described in said Convention in Article II thereof, that there is a class of such changes known as "Bancos", where the river, by gradual erosion and deposit, doubles upon itself, suddenly cutting through, abandoning the old channel, and forming a new one of very indefinite if any length whatever, leaving an isolated or almost entirely isolated tract of land on one side of the river which according to the terms of said Treaty is subject to the dominion and jurisdiction of the nation on the opposite side, with no, or in any event, very little contiguous territory to the river's channel or main boundary line, and that in the after changes in the rivers' bed which are constantly being made, these "bancos" are often left distant from any touch with the river's current by gradual erosion and deposit, leaving the question of accretion as between the "banco" and adjacent lands (which belong to the opposite nation) very difficult of solution.

Now therefore, it appearing that the application of the principle governing avulsive changes as laid down in said before mentioned Article II of the Convention of one thousand eight hundred and eighty-four if applied to such avulsive banco changes, as before described, would not tend to simplify and define the boundary but rather to confuse and complicate it, it is desirable to provide another method for their treatment and consideration, the Government of the United States of America, and the Government of the United States of Mexico have resolved to conclude a conven-

tion which shall lay down rules for the determination of such questions and have appointed as their Plenipotentiaries:

Who, after exhibiting their respective Full Powers, found in good and due form, have agreed upon the following article:

ARTICLE I.

Whenever, in determining the true boundary under Article II of the treaty of November 12th. 1884, any change wrought by the force of the current in cutting a new bed, and abandoning the old channel, wherein the land thus separated from the river's current in the new channel has less frontage on said new channel of the river than it has in depth at right angles with the general direction of the new channel, then the true boundary shall pass from the old bed of the river to the new channel, and the domain and jurisdiction over the "Banco" thus separated shall pass to that nation on the side of the river's channel on which it is left. Provided that the inhabitants of the land may retain their citizenship in the country to which they belong, if they so elect, and the owners of land retain title thereto: The transfer of such "Banco" to be announced with definite metes and bounds by an International Boundary Commission in the form and manner that other judgments on questions submitted to them are announced.

Señor Romero to Mr. Olney.

LEGACION MEXICANA,
WASHINGTON, *Febrero 29 de 1896.*

SEÑOR SECRETARIO:

Tengo la honra de acusar recibo de la nota de usted no. 78, de esta fecha, con la que me remite usted un proyecto de Convencion entre Mexico y los Estados Unidos que modifique los artículos I y II de la de 12 de Noviembre de 1884 en el sentido de que los bancos formados en los rios límites por los cambios de la corriente y cuyo frente sobre el nuevo cauce sea menor que su latitud en ángulo recto con la direccion general de la nueva corriente, pasen á la nacion de cuyo lado queden; de conformidad con el informe que los Comisionados respectivos de ambos gobiernos en la Comision Internacional de Límites fluviales han dado á sus respectivos Gobiernos sobre este asunto.

Tengo la honra de informar á usted en respuesta que ya trasmito copia de esa nota y del proyecto de Convencion al Gobierno de

México para que en vista de esos documentos y de los antecedentes de este asunto determine lo que le parezca oportuno.

Sírvase usted aceptar Señor Secretario, las seguridades de mi más distinguida consideracion.

M. ROMERO.

Hon. RICHARD OLNEY,
etc., etc., etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *February 29, 1896.*

Mr. SECRETARY:

I have the honor to acknowledge the receipt of your note No. 78, of this date, with which you send to me a draft of Convention between Mexico and the United States which modifies articles I and II of that of November 12, 1884 in the acceptation that the bars formed in the boundary rivers by changes of the current and whose face upon the new bed may be less than its latitude at right angle with the general direction of the new current, pass to the nation on whose side they remain; in conformity with the report that the respective Commissioners of both Governments in the International Commission of River Boundaries have given to their respective Governments in regard to this business.

I have the honor to inform you in reply that I have already transmitted copy of that note and of the draft of Convention to the Government of Mexico in order that in view of those documents and of the antecedents of this business it may determine what it deems proper.

Please accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. RICHARD OLNEY,
etc., etc., etc.

Mr. Olney to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *April 15, 1896.*

Señor Don MATIAS ROMERO,
&c., &c., &c.

SIR:

I have the honor to revert to your note of the 18th of September last, with which you enclosed copy of a report of the appropriate division of the Ministry for Foreign Affairs setting forth reasons

why the proposal made in the Department's note of May 3rd of \$391, to be asked of Congress to settle the claim of the Mexican owners of cattle seized by the Customs Service of the United States near El Paso, Texas, is unacceptable to the Mexican Government.

In communicating that report you requested that it might be taken into consideration with a view to reconsidering the proposal in question.

I did not fail to communicate copy forthwith to the Secretary of the Treasury. That officer upon re-examination was unable to change the conclusion already reached upon the evidence before his Department that the seizure of the cattle belonging to Señor Ornelas had been effected within the jurisdiction of the United States, and that, therefore, no liability for punitive damages accruing against the Government of the United States in the premises, he was unable to propose any other offer than that already made, based upon the averment of extenuating circumstances.

Thereupon the papers in the case on file in the Department were subjected to a renewed examination, from which it appeared that a radical conflict existed between the Mexican and American testimony in regard to the place of seizure of the cattle in question. According to the evidence under oath before the Mexican Judge, the seizure was effected while the cattle were drinking in the shallow bed of the Rio Grande at a point known as the Vado de la Isleta; while according to the evidence elicited by the agents of the Treasury Department and confirmed by reputable sworn testimony, they had crossed the river and penetrated several hundred yards into territory unquestionably belonging to the jurisdiction of the United States.

The map transmitted with the Mexican complaint as indicating the locality where the seizure was effected, represents the Rio Grande at that point as forming a broad basin, probably dry, or nearly so in the arid season and constituting the so called Vado de la Isleta. To the north of the Vado, and immediately skirting the Texan shore, the deeper permanent channel of the river appears to run.

Whether in the frequent changes in the river beds since the original boundary survey of 1855-6 the boundary line has been altered so as to affect the territorial jurisdiction over the Vado itself, is not stated, and possibly even under the Mexican claim as to the locality it might prove that the seizure was effected upon territory actually belonging in virtue of existing conventions to the United States.

However this may be an issue of fact appears to be distinctly joined, each Government relying upon evidence collected by itself for its assertion that the seizure was effected upon its respective territory. The question would appear therefore to have reached a stage when agreement upon the facts through the diplomatic channel is not immediately in sight unless the one or the other party is willing to abandon its case.

Under these circumstances I have the honor to suggest whether settlement of the dispute by some process analogous in part at least to friendly arbitration may not be expedient as well as practicable.

The position of the Vado de la Isleta, brings it within the local cognizance of the International River Boundary Commission now operating under convention between the United States and Mexico for the ascertainment and settlement of their respective territorial rights on the shifting frontier of the Rio Grande.

After further conference with my colleague the Secretary of the Treasury, I beg to inquire whether your Government would be willing to come to an understanding with this Government, through you as its representative in the United States by which the International River Boundary Commission shall be requested to examine and report as to the precise locality of the seizure of the cattle in question and the territorial ownership of that point when so ascertained, but without power or authority to decide the question of indemnity either in principle, or as to the amount of damages. Upon the report of the Commission being made, it should not be difficult for the two Governments to consider the matter in the light of the ascertained facts.

Accept, etc., etc.,

RICHARD OLNEY.

Señor Romero to Mr. Olney.

LEGACIÓN MEXICANA,
WASHINGTON, Mayo 11 de 1896.

Señor SECRETARIO:

Tengo la honra de informar á usted que el Director de las Obras hidráulicas del Rio Bravo ha comunicado al Gobierno de México, que el Condado de Hidalgo, del Estado de Texas, está construyendo un espolon en una punta saliente de la ribera de los Estados Unidos de dicho rio, frente á la villa de Reynosa, Tamaulipas, México.

El Gobierno mexicano cree que esa obra se halla situada en un lugar en que por la configuración de cauce del rio, perjudicará la playa mexicana y hará cambiar la corriente de las aguas en perjuicio de México y fundado en la parte final del artículo V del tratado entre los dos países de 30 de Diciembre de 1853, que previene que no se permitirá ninguna variación de la linea divisoria que él establece, sin consentimiento de los dos Gobiernos, el Señor Mariscal, Secretario de Relaciones Exteriores de los Estados Unidos Mexicanos me da instrucciones, con fecha 30 de Abril próximo pasado, para que someta yo este asunto á la consideración de usted y pida la inmediata suspensión de la obra, indicando se someta este incidente al estudio de la Comisión internacional de límites fluviales, para que consulte si es ó no de permitirse la construcción de la misma obra.

Para mejor conocimiento del asunto, remito á usted copia de una nota sobre este incidente, que la Secretaría de Comunicaciones y Obras Públicas dirigió á la de Relaciones Exteriores del Gobierno Mexicano el 7 de Abril citado.

Sírvase usted aceptar, Señor Secretario, las seguridades de mi mas distinguida consideración.

M. ROMERO.

HON. RICHARD OLNEY,
etc., etc., etc.

[Inclosure.]

Secretaria de Comunicaciones y Obras Públicas.—México.—
Sección 3ª. Número 3254.

El Director de las Obras hidráulicas del rio Bravo en Matamoros dice á esta Secretaria en oficio de fecha 28 de Marzo último, lo que sigue:

“Habiendo sabido por conductos particulares que se hacian algunas obras en la margen americana del Rio Bravo frente á Reynosa, pasé á examinar su objeto y detalles de construcción. Como resultado de dicho examen, tengo el honor de informar á usted que en efecto se está construyendo un espolón en una punta saliente de la ribera frente á la mencionada villa, empleando el sistema de colchones de rama y lastre de ladrillo en capas alternativas como de dos pies de espesor. Aunque el trazo de la obra es bastante defectuoso para conseguir, como intentan, flexionar la corriente del rio hacia nuestra margen, está situada en un lugar en que por la configuración natural del cauce, influenciará notablemente el curso de las aguas en la curva próxima inferior, en perjuicio de nuestro terreno. La dirección y costo de dichos trabajos lo hace el Condado de Hidalgo, Texas. Tengo el honor

de poner lo expresado en el superior conocimiento de usted, porque, segun entiendo, no ha sido sujetado dicho proyecto al estudio de la Comisión mixta, según lo previene la Convención acordada por la misma el 4 de Diciembre de 1894."

Y tengo el honor de transcribirlo á usted para que se sirva promover lo conducente al caso.

Reitero á usted mi atenta consideración.

Libertad y Constitución.

MÉXICO *Abril 7 de 1896.*

MENA.

Al SECRETARIO DE RELACIONES.

Presente.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *May 11, 1896.*

Mr. SECRETARY:

I have the honor to inform you that the Director of the Water Works of the Rio Grande has advised the Mexican Government that the county of Hidalgo, State of Texas, is constructing a pier at a point projecting from the United States bank of that river, opposite the town of Reynosa, Tamaulipas, Mexico.

The Mexican Government thinks that this work is situated at a point at which from the configuration of the bed of the river, it will damage the Mexican bank and will effect a change in the current of the water to the detriment of Mexico. Pursuant therefore to the final part of Article V of the treaty between the two countries of December 30, 1853 which provides that no change in the divisional line which it establishes shall be made except by the consent of the two Governments, Mr. Mariscal, Secretary of Foreign Affairs of the United States of Mexico, has instructed me under date of the 30th ultimo, to submit this matter to your consideration and to ask the immediate suspension of the work, suggesting that this incident be submitted to the examination of the International Water Boundary Commission, in order that it be determined whether or not the construction of this work shall be allowed.

For a better comprehension of this case, I transmit to you, a copy of a note touching this incident which the Secretary of Public Works and Roads addressed to the Ministry of Foreign Affairs of the Mexican Government, the 7th ultimo.

Accept, etc.,

M. ROMERO.

Hon. RICHARD OLNEY,

Secretary of State.

[Inclosure.]

[Translation.]

MINISTRY OF PUBLIC WORKS AND ROADS, MEXICO.

SECTION 3. NUMBER 3254.

The Director of the Water Works of the Rio Grande in Matamoras reports to this Ministry, under date of March 28th last, the following:

Having been informed through private channels that some work was under way on the American bank of the Rio Grande, opposite Reynosa, I proceeded to examine the object and the details of its construction.

As a result of this examination, I have the honor to inform you that a pier is in fact under construction at a point projecting from the shore opposite the town mentioned, the system of rough mattresses and brick ballast in alternating layers of about two feet in thickness being employed. Although the plan of the work is rather defective for bringing about, as it is proposed, a deflection of the current of the river towards our shore, yet it is located at a place at which from the natural configuration of the bed, it will noticeably affect the flow of the water at the next lower bend, to the detriment of our territory. The management and costs of the works is assumed by the County of Hidalgo, Texas. I have the honor to bring the above to your knowledge, for, as I learn this project has not been submitted to the examination of the Mixed Commission as is provided by the Convention concluded December 4, 1894.^a

I have the honor to transmit to you a copy hereof, in order that proper action may be taken in the matter.

I renew the expression of my attentive consideration.

Liberty and the Constitution.

MEXICO, *April 7, 1896.*

MENA.

MINISTRY OF FOREIGN RELATIONS,

Present.

^a [The date is incorrectly given.—The Convention creating an International Boundary Commission was concluded March 1, 1889. The duration thereof was extended one year by the Convention of October 1, 1895.—Agent's note.]

Mr. Olney to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *May 19, 1896.*

Señor Don MATIAS ROMERO,
 &c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 11th instant, with enclosure relating to the construction of a pier on the American bank of the Rio Grande by the County of Hidalgo, Texas opposite the town of Reynosa, Tamaulipas, Mexico, which, in the opinion of your Government, will affect the Mexican shore, and cause a change in the current of the river to the detriment of that country.

You also remark that in view of the final paragraph of Article V of the Treaty of December 30, 1853, between the United States and Mexico which you state "provides that no change in the divisional line which it establishes shall be made except by the consent of the two Governments."

Mr. Mariscal, the Secretary of Foreign Affairs asks the immediate suspension of the work until the International Water Boundary Commission has made an examination thereof and reported upon its admissibility.

In reply I have the honor to say that whereas the final paragraph of Article V of the Treaty of February 2, 1848, which clause is also embodied in Article I of the Treaty of December 30, 1853, provides that no change shall be made in the boundary line between the United States and Mexico except by the express and free consent of those Governments, no such provision as referred to in your note is contained in Article V of the Treaty of 1853.

Inasmuch, however, as the stipulation does appear elsewhere in the treaty provisions between the two countries concerning their adjacent boundaries, I have duly instructed Colonel Anson Mills, the United States Commissioner of the International Boundary Commission to institute a thorough investigation of the incident and to report to the Department the result of such investigation. I have also in compliance with your request, addressed the Governor of Texas, asking a suspension of the work in question pending the examination of the matter by that Commission.

Accept, etc.,

RICHARD OLNEY.

Mr. Olney to Señor Comarribas.

DEPARTMENT OF STATE,

WASHINGTON, ~~June~~ 16. 1896.

SEÑOR DON M. COMARRIBAS.

etc., etc., etc.

SIR:

Referring to Mr. Romero's note of the 11th ultimo, relative to the construction of a pier on the American bank of the Rio Grande which Mr. Romero claimed would affect Mexican territory by deflecting the current of the river, I have the honor to inform you that I am advised by the Governor of Texas that the work has been suspended pending an investigation by the International (Water) Boundary Commission.

Accept, etc..

RICHARD OLNEY.

Señor Romero to Mr. Olney.

LEGACION MEXICANA,

NUEVA YORK, Septiembre 17 de 1896.

SEÑOR SECRETARIO:

Tengo la honra de manifestar á usted, refiriéndome á su nota número 101 de 15 de Abril último respecto del ganado, perteneciente á J. Nepomuceno Ornelas y otros ciudadanos mexicanos, decomisado por empleados fiscales de los Estados Unidos, que el Gobierno de México despues de consultar á los interesados, acepta la propuesta que se sirvió usted hacerle de que se recomiende á la Comision internacional de Límites fluviales, que, previo exámen del lugar en que se efectuo la captura del ganado; decida si está en territorio de México ó en el de los Estados Unidos.

Mi Gobierno desea ponerse de acuerdo con el de los Estados Unidos sobre los términos de las instrucciones idénticas que cada Gobierno dé á su Comisionado.

Sírvase usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideracion.

M. ROMERO.

Hon. RICHARD OLNEY,
etc., etc., etc.

[Translation.]

MEXICAN LEGATION,

NEW YORK, September 17, 1896.

MR. SECRETARY:

I have the honor to state to you in reference to your note No. 101, of the 15th of April last in regard to the cattle belonging to J. Nepomuceno Ornelas and other Mexican Citizens seized by

revenue officers of the United States, that the Government of Mexico after consultation with the interested parties accepted the proposition which you were pleased to make to it, which recommends that the International Commission of Water Boundaries shall, after examination of the locality where the cattle was captured, decide whether it is in Mexican territory or in the United States.

My Government desires to place itself in accord with that of the United States as to identical instructions to be given by each Government to its Commissioner.

Be pleased to accept, Mr. Secretary, the assurances of my distinguished consideration.

M. ROMERO.

Hon. RICHARD OLNEY,
&c., &c., &c.

Señor Romero to Mr. Olney.

LEGACIÓN MEXICANA,
WASHINGTON, *Octubre 10 de 1896.*

Señor SECRETARIO:

Tengo la honra de acusar recibo de la nota de usted, número 168, de esta fecha, con la que me manda usted copia de un proyecto de instrucciones al Coronel Anson Mills, del Ejército de los Estados Unidos, Comisionado de este país en la Comision Internacional de Límites fluviales, para que la Comisión examine é informe respecto del lugar preciso en que se verificó la captura por empleados de la Aduana de El Paso, Texas, de 72 cabezas de ganado de la propiedad de J. Nepomuceno Ornelas y otros ciudadanos Mexicanos, y sobre si ese lugar está en territorio de México ó de los Estados Unidos; y me recomienda usted que someta ese proyecto al Gobierno de México para que si lo encuentra aceptable, pueda él de los Estados Unidos dirigirlo formalmente al Coronel Mills, para su cumplimiento, sabiendo que el Gobierno Mexicano dará instrucciones idénticas á su Comisionado.

Tengo la honra de informar á usted en respuesta que hoy trasmito á mi Gobierno la nota de usted y el proyecto expresado, con los fines indicados, y que tan luego como reciba sus instrucciones sobre el asunto, las comunicaré á ese Departamento.

Sirvase usted aceptar, Señor Secretario, las seguridades de mi mas distinguida consideración.

M. ROMERO.

Hon. RICHARD OLNEY,
etc., etc., etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *October 10, 1896.*

Mr. SECRETARY:

I have the honor of acknowledging receipt of your note, No. 168, of this date, with which you communicate to me copy of a draft of instructions to Colonel Anson Mills, of the United States Army, appointed by this country on the International Commission of Fluvial Boundaries, to the effect that the Commission examine and report respecting the precise location of the capture, by employees of the Custom House of El Paso, Texas, of 72 head of cattle, the property of J. Nepomuceno Ornelas and other Mexican citizens, and also if that spot is in the territory of Mexico or of the United States; and you recommend that this draft be submitted to the Government of Mexico in order that if found acceptable, the United States may formally direct it to Colonel Mills for its accomplishment, knowing that the Government of Mexico will give similar instructions to its Commissioner.

I have the honor of informing you in reply that today I send to my Government your note and the draft, with the indicated conclusions, and that, as soon as I receive its instructions upon the subject, I will communicate them to your Department.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Mr. Olney to Señor Romero.

No. 168.

DEPARTMENT OF STATE,
WASHINGTON, *Oct. 10, 1896.*

Señor Don M. ROMERO,
 &c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 17th ultimo, in the matter of the seizure in 1891, by the customs officials at El Paso, Texas, of 72 head of cattle belonging to Mr. Ornelas and other Mexican citizens, in which you inform me of your Government's acceptance of the suggestion contained in my note of April 15th last that the International Water Boundary Commission be requested to examine and report as to the precise locality of the seizure and the territorial ownership of that point when so ascertained.

In order that identical instructions may be given by each Government to its respective Commissioner I submit herewith for your Government's consideration a draft of an instruction to Colonel Mills, the United States Commissioner. This draft has been approved by the Treasury Department, which will present no further evidence in the case. The Collector of Customs at El Paso will, however, be directed to give the Commission such further information and assistance as it may request.

Upon being advised of your Government's acceptance of the draft it will be signed and forwarded to Colonel Mills with the designated inclosures.

Accept, etc.

RICHARD OLNEY.

Enclosure:^a Draft instruction as above.

Señor Romero to Mr. Olney.

LEGACIÓN MEXICANA,
WASHINGTON, *Octubre 16 de 1896.*

Señor SECRETARIO:

Tengo la honra de informar á usted que he recibido instrucciones del Señor Mariscal, Secretario de Relaciones Exteriores de los Estados Unidos Mexicanos, fechadas en la Ciudad de México el 5 del corriente, para comunicar al Gobierno de los Estados Unidos de America que él de México aprobó la decisión acordada el 10 de Agosto último por la Comisión Internacional de Límites fluviales, en el caso de la isla de San Elizario; segun la cual,—si ella fuere aprobada tambien por el Gobierno de los Estados Unidos,—deberan construirse por cuenta de ambos Gobiernos, monumentos que marquen el antiguo cauce del Rio Bravo del Norte en ese lugar.

Sirvase usted aceptar, Señor Secretario, las seguridades de mi mas distinguida consideración.

M. ROMERO.

Hon. RICHARD OLNEY,
etc. etc. etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *October 16, 1896.*

Mr. SECRETARY:

I have the honor to inform you that I have received instructions from Señor Mariscal, Secretary of Foreign Affairs of the Mexican

^a [Inclosure omitted. For identic instructions given by the governments see "Proceedings International Boundary Commission," pp. 117, 118. Further correspondence settling details of submission is also omitted as immaterial.—Agent's note.]

United States, dated City of Mexico, the 5th instant, to communicate to the Government of the United States of America that the Government of Mexico approved the decision given on the 10th of August last by the International (Water) Boundary Commission, in the case of the Islands of San Elizario; according to which—if approved likewise by the Government of the United States—monuments shall be erected at the cost of both Governments to mark the former channel of the River Rio del Norte at that place.

Accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. RICHARD OLNEY,
etc, etc, etc.

Señor Romero to Mr. Olney.

LEGACIÓN MEXICANA,
WASHINGTON, *Marzo 3 de 1897.*

Señor SECRETARIO:

Tengo la honra de informar á usted que he recibido instrucciones del Gobierno de México para manifestar á usted que habiendo aprobado el proyecto de instrucciones á los Comisionados de la Comision Internacional de límites fluviales organizada por la Convención de 1º de Marzo de 1889, para que examinen y averiguen el lugar preciso en donde se efectuó la captura de un ganado de la propiedad del ciudadano mexicano J. Nepomuceno Ornelas y otros, é informen en qué territorio se encuentra ese lugar, cuyo proyecto me remitió usted con su nota número 168 de 10 de Octubre de 1896, se han dado instrucciones en ese sentido al Comisionado de México, Señor Don F. Javier Osorno, y que espera que de conformidad con lo ofrecido en su nota citada, envíe usted al Comisionado de los Estados Unidos, Coronel Anson Mills, las mismas instrucciones.

Sírvase usted aceptar, Señor Secretario, las seguridades de mi mas distinguida consideración.

M. ROMERO.

Hon. RICHARD OLNEY
etc. etc. etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *March 3d, 1897.*

Mr. SECRETARY:

I have the honor to inform you that I have received instructions from the Government of Mexico to state to you, that, having

approved the draft of instructions to the Commissioners of the International Water Boundary Commission, organized by the convention of March 1st, 1889, to examine and ascertain the precise place where the seizure was made of cattle belonging to the Mexican citizen J. Nepomuceno Ornitás and others, and to learn on what territory the said place is situated, which draft you forwarded to me with your note number 168 of the 10th of October, 1896,—instructions to that effect have been given to the Mexican Commissioner, Señor Don F. Javier Osorno, and he hopes in conformity with what is promised in your said note, that you will send to the United States Commissioner, Colonel Anson Mills, similar instructions.

Accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. RICHARD OLNEY,
etc, etc, etc.

Señor Romero to Mr. Sherman.

LEGACION MEXICANA,
WASHINGTON, *Julio 22 de 1897.*

Señor SECRETARIO:

Tengo la honra de informar á usted que he recibido una nota del Señor Mariscal, Secretario de Relaciones Exteriores de los Estados Unidos Mexicanos fechada en la ciudad de México, el 8 del corriente, en la que me manifiesta que, aceptar por el Gobierno de México la indicacion hecha por ese Departamento para que se recomendase á la Comision Internacional de Limites fluviales el examen y averiguacion del lugar preciso en donde se efectuó la captura de un ganado perteneciente á J. Nepomuceno Ornelas y otros mexicanos, por empleados de la Aduana de El Paso, Texas, y la aprehension de dos hombres que lo cuidaban, y que produjese un informe sobre si ese lugar se encuentra en territorio de México ó de los Estados Unidos, dió á su Comisionado las instrucciones convenientes, y la Comision procedió al desempeño de su encargo.

El Comisionado mexicano remitió á su Gobierno con oficio de 13 de Mayo último, copias de las actas levantadas en los trabajos preliminares de la Comision, y de la que contiene su opinion en el asunto, suscrita por la misma Comision el dia 8 del expresado mes. En esa acta, de que acompaño copia á ese Departamento, manifiesta la Comision que, despues de tomar en cuenta las nuevas declaraciones de los deponentes por ambas partes, el informe y

mapa presentados por los ingenieros consultores y las excepcionales condiciones topográficas del Rio Bravo, que no permiten determinar con precision la linea que divide ambos paises; conviene en que materialmente le fué imposible establecer la propiedad territorial del punto en que se verificó la aprehension y aún el lugar exacto de esta, porque en tanto que los pastores Valencia y Alvarez afirman que los hechos ocurrieron en la extremidad mexicana del cauce del rio, Blanchard, uno de los aprehensores, sostiene que las sucesos pasaron en el lado de los Estados Unidos. Agrega que las probabilidades son de que una parte del ganado estaba del lado de los Estados Unidos cuando fué confiscado y la otra en el lado mexicano de la linea divisoria, y que lo mismo puede decirse respecto del lugar en que se verificó la aprehension de los pastores.—Concluye esa acta con la opinion concurrente de los Comisionados, de que la preponderancia del testimonio y las presunciones apoyaban la creencia de que la mayor parte del ganado fué recogida más cerca de la ribera mexicana del ancho cauce del rio, que de la de los Estados Unidos, no obstante la opinion del Comisionado Mills de que no habia testimonios bastantes para establecer con algun grado de certidumbre la localizacion de la linea divisoria ó el punto exacto de la aprehension.

Ha quedado, pues, sin averiguarse el punto preciso en que se hizo la captura del ganado; y por consiguiente se halla la cuestion en el mismo estado que guardaba al suspenderse la discusion en virtud de la nota de ese Departamento, del 18 de Abril de 1896.

Aun suponiendo que la preponderancia y presunciones expresadas en el dictamen de la Comision Mixta no fueran suficientes para resolver el caso en favor de los reclamantes, sí puede decirse que ese dictamen destruye las alegaciones sobre jurisdiccion territorial, presentadas antes por el Gobierno de los Estados Unidos las cuales se hallaban contrariadas por las que habia hecho el Gobierno Mexicano, como lo reconoció ese Departamento en su nota referida.

Ahora bien, puesto que el ganado de Ornelas y sus compañeros fué capturado por supuesta violacion de las leyes fiscales de los Estados Unidos, debió haberse probado plenamente la existencia del delito de contrabando que motivó tal procedimiento, arbitrario á la luz del Derecho y calificado de ligero por el Departamento de Estado en su nota del 25 de Julio de 1894, antes de que se procediera á confiscacion y venta de los animales secuestrados. Además, el Agente especial del Departamento del Tesoro, Mr. McCoy, despues del examen que hizo del caso, opinó que debia reembolsarse á los propietarios del ganado de *su valor en México al*

tiempo de la captura, porque no hay pruebas de que se hubiera intentado introducir de contrabando los animales á territorio de los Estados Unidos. En esta opinion y en la muy respetable del Secretario de Estado W. Q. Gresham, expuesta en la nota citada, de que el procedimiento ligero de Administrador, al hacer la venta del ganado despues de que los quejosos habian presentado su demanda, privó á los dueños de la oportunidad de recobrar su ganado, quedó reconocida implicitamente la justicia de la reclamacion de Ornelas, sus compañeros y los dos pastores presos; y de ella se deriva la obligacion que tiene el Gobierno de los Estados Unidos de indemnizarlos pagándoles el valor que el ganado tenia en México al tiempo de su aprehension, y de los daños y perjuicios que los reclamantes han sufrido por esos procedimientos ilegales.

En este virtud, el Gobierno de México me ha dado instrucciones para que esta Legacion insista en la reclamacion de Ornelas y otros, que considera enteramente justificada por las razones expuestas ahora y las demas que se han presentado en comunicaciones anteriores y especialmente en la nota del Señor Mariscal, número 150, de 9 de Septiembre de 1895, de que remití copia á ese Departamento con nota de 18 del mismo mes.

Sirvase usted aceptar, Señor Secretario, las seguridades de mi mas distinguida consideracion.

M. ROMERO.

Hon. JOHN SHERMAN,
etc., etc., etc.

[Inclosure 1.]

Copia.

EL PASO, TEXAS, *Mayo 8 de 1897.*

La Comision Mixta se reunió en la oficina del comisionado de los Estados Unidos á las 4 p. m. para resolver la cuestion sometida á su fallo, á saber:—"examinar y averiguar el lugar preciso en donde se efectuó la captura del ganado é informar en cual territorio se encuentra ese lugar." Teniendo en cuenta las nuevas declaraciones de los deponentes por ambas partes, así como el informe y mapa presentados por los ingenieros consultores que se acompaña y en el que están marcados puntos relacionados con las declaraciones de los testigos; cree de su deber manifestar, para conocimiento de la superioridad, las circunstancias extraordinarias en que corre el Rio Bravo, difíciles de apreciar por las autoridades no familiarizadas con aquellas. El Rio Grande corre al través de sus valles de aluvión dentro de un cauce cuya anchura es de cuatrocientos á mil yardas, y cuyo fondo, formado de arena fina y suelta, se

había constantemente removido por la fuerza de las corrientes; de tal suerte que aun un ingeniero, sin instrumentos para medir la profundidad de las aguas cuando el cauce del río está lleno, ó para indicar el nivel de su superficie cuando está seco, no podría determinar en dónde está la línea divisoria, sino con una aproximación de centenares de yardas. Al cabo de cierto número de años, cuando, seco el río, las crecientes anuales han cambiado materialmente su cauce por la arena removida merced á la fuerza de la corriente, y cuando estando seco después, los vientos remueven los arenales de su cauce, es enteramente imposible determinar de un modo científico, y sin la aproximación de varios centenares de yardas, en dónde estaba la línea divisoria en la época de la confiscación del ganado y del arresto de los hombres el 15 de Septiembre de 1891. Y aun cuando concertar esto de una manera aproximada fuera posible para los testigos en cuanto á "la localidad exacta de la aprehensión;" tal cosa no sucedió, en el presente caso, segun consta de las declaraciones tomadas: pues en tanto que los pastores Valencia y Alvarez afirman que fué en la extremidad mexicana del cauce, Blanchard por su parte afirma, con igual certidumbre, que los sucesos pasaron en el lado americano. Las declaraciones unánimes establecen, sin embargo, el hecho que había dos charcas de agua cerca de la ribera mexicana y tambien que existia un lodazal junto á la ribera americana opuesta. De esto se desprende que, cuando el río cesó de correr, la línea divisoria pudo haber quedado en uno de estos dos puntos, supuesto que el canal que contuvo la última corriente habria indudablemente sido declarado como el canal limitrofe; pero fué imposible obtener testimonio alguno para determinar por cual de los dos canales pasó el último hilo de agua.

La Comision Mixta, por lo tanto, muy á su pesar, está de acuerdo en convenir que materialmente le fué imposible, á tan distante fecha, establecer la propiedad territorial del punto de la aprehension, y aún el lugar exacto de ésta, con absoluta certidumbre.

Las probabilidades son de que una parte del ganado estaba del lado de los Estados Unidos cuando fué confiscado y la otra en el lado mexicano de la línea divisoria, y esto tambien pudiera decirse respecto del punto en que se verificaron las aprehensiones de uno ó de ambos pastores.

El comisionado mexicano manifestó en seguida, que creia que la preponderancia del testimonio y las presunciones, apoyaban que la mayor parte del ganado fué recogido mas cerca de la ribera mexicana del ancho cauce seco del río, que de la de los Estados Unidos,

en lo que estuvo conforme el comisionado americano; pero insistiendo este, al mismo tiempo, en que no habia testimonios bastantes para establecer con algun grado de certidumbre la localizacion de la linea divisoria ó el punto exacto de la aprehension.

Para llegar á estas conclusiones los comisionados tuvieron presentes no solamente las declaraciones tomados por ellos, á saber: las de los dos pastores Valencia y Alvarez y la de Blanchard, sino tambien las tomadas por el comisionado de los Estados Unidos McKie, en 17 de Septiembre de 1891, incluidas en el expediente que nos fué remitido. Llamamos la atencion acerca de las declaraciones en él contenidas de Salomon Téllez, Juan Pedraza (Pedras), testigos por parte de México. Nos fué imposible examinar á estos dos últimos testigos; á Pedraza por haber fallecido y á Tellez por ignorar su paradero.

La Comision Mixta se aplazó, en seguida, para reunirse de nuevo el miercoles 11 de Mayo á las 11 A. M. para terminar las actas relativas al caso de la Isla de San Elizario No. 10, y el número 11 sobre la confiscacion del ganado.

Firmado. F. JAVIER OSORNO Firmado. ANSON MILLS

“ S. F. MAILLEFERT. “ JOHN A. HAPPER.

Es copia que certifico.

El Secretario.

S. F. MAILLEFERT.

[Inclosure 2.]

Copia.

EL PASO, TEXAS, *Mayo 3 de 1897.*

Señores COMISIONADOS:

De conformidad con lo acordado por la Comision en Abril 26 del corriente año, tenemos la honra de presentar á ustedes el adjunto diseño (sketch) topográfico del Vado del Rio Bravo entre los pueblos de Isleta y Zaragoza y detalles adyacentes, con el objeto de ayudarles á formar criterio fundado para la decision á que hubiese lugar en el caso de la aprehension del ganado, No. 11.

Las lineas marcadas en nuestro plano, que corresponden á nuestro levantamiento ejecutado en 27 y 28 de Abril último, enseñan la topografia actual del rio y puntos relacionados al referido caso. Los lugares que bajo protesta fueron mostrados por los dos testigos mexicanos como puntos en que fueron aprehendidos, van marcados con cuadros negros seguidos de notas explicatorias.

Desde luego podrán ustedes notar, que la distancia sobre la direccion del Vado, entre el bordo del terreno antiguo del lado

americano, y el igual del lado mexicano, es como de 800 metros; y que tal distancia se conserva mas ó menos en la extension del rio que abarca nuestro levantamiento.

Solamente hemos puesto en el plano los bordes que fijamos topográficamente al seguir nuestras lineas con el instrumento, y por lo tanto omitimos la continuacion de sus contornos á lo largo del rio, ya que no la seguimos paso á paso, para poderlos demarcar con precision en el dibujo. Estos bordes altos de la cuenca del cauce tienen como tres metros de altura sobre la playa.

Las lineas á tinta azul, fueron tomadas de un plano que en Diciembre de 1892, hizo el ingeniero mexicano Felipe Zavalza (ya difunto), el cual plano, con otros documentos, fué puesto en manos de la Comision para servir en el presente estudio.

Comparando nuestro levantamiento con el plano de Zavalza se advierten algunas variaciones; mas las variaciones que se notan son bien pequeñas respecto de lo que pudieran ser, y debiera esperarse que fuesen, dado el caracter variable de la corriente del Rio Bravo.

Las lineas verdes representan la topografia del cauce segun la hoja número 29 de Emory-Salazar, año de 1852 á la escala de 1:60000 amplificada por nosotros á doce veces. Para esto el único punto comun que pudimos determinar de la referida hoja para comparar con nuestra topografia, fué el cruzamiento ó interseccion de la acequia madre con el camino real del pueblo de Isleta. Actualmenta esta interseccion corresponde en el terreno, al lugar donde la calle principal del referido pueblo, prolongada, corta la acequia; y no donde existe tal detalle en la localidad, puesto que el puente se encuentra hoy como á 200 metros al Sur de aquel punto que hemos adoptado como referencia. El motivo que nos indujo á tal adopcion es, que si tomáramos como referencia el puente mismo, el rio iria á caer fuera de la cuenca, sobre el terreno alto de suelo viejo, que como ya dijimos, tiene tres metros de altura sobre el fondo del cauce; lo cual no es aceptable puesto que dicho terreno no presenta vestigios de haber sido ocupado por el rio durante muchas generaciones, cuando menos; ó quizas nunca, hablando mas propriamente. Mas con el punto que hemos adoptado no incurrimos en ese inconveniente, puesto que en este caso el rio de Salazar va á caer de todos modos, en el terreno, dentro de la cuenca y sus enlaces con los bordes altos. Y ya que la localizacion del rio de Salazar no nos resulta tan exacta como deseáramos, tiene sin embargo una aproximacion aceptable y bastante, en nuestra

opinion, puesto que sigue muy de cerca el canal actual, para demostrar desde luego que, en la extension de nuestro levantamiento, en la localidad de que se trata, no ha ocurrido ninguna avulsion desde el año de 1852 á la presente fecha y por consiguiente, podemos fundadamente llegar á la conclusion: que la linea divisoria ha permanecido y permanece aun en el centro del canal profundo del rio—y por lo tanto la hemos demarcado en nuestro plano, sobre el río mismo, con el título de “Canal principal del Río Bravo en Abril de 1897.”

Desde 1852 el rio ha podido ocupar y probablemente ha ocupado en diferentes ocasiones, sucesivamente todos los puntos de la superficie entre los bordos mencionados; pero como estos movimientos han sido por la corrosion y depósito, la linea divisoria ha seguido iguales movimientos, como contenida en el canal mismo.

Reiteramos á usted nuestra atenta consideracion.

W. W. FOLLETT,
Consulting Engineer.

E. CORELLA.
Ingeniero Consultor.

Es copia que certifico.

El Secretario,
S. F. MAILLEFERT.

[Translation.]

LEGATION OF MEXICO.
WASHINGTON, *July 22nd, 1897.*

MR. SECRETARY:

I have the honor to inform you that I have received a note from Mr. Mariscal, Secretary of Foreign Relations of the United States of Mexico, dated City of Mexico, July 8th, 1897, whereby he informs me that the Government of Mexico, having accepted the suggestion made by the Department of State of the United States, viz. that the International Water Boundary Commission should be instructed to examine and ascertain the precise spot where the seizure of some cattle belonging to J. Nepomuceno Ornelas and other Mexicans took place, said cattle having been seized by officers of the Custom House at El Paso, Texas, and where the men having charge of the cattle were arrested; also to report whether that place is in the territory of Mexico or in that of the United States, gave its Commissioner suitable instructions, and the Commission proceeded to perform its task.

The Mexican Commissioner sent to his Government, with a communication bearing date of the 13th of May last, copies of the reports of the proceedings had during the preliminary labors

of the Commission, and of that containing his opinion on the subject, signed by the Commission on the 8th day of the month aforesaid. In that report, a copy of which I herewith transmit to the Department of State, the Commission states that, after considering the new depositions of the deponents on both sides, the report and the map presented by the consulting engineers, and the exceptional topographical conditions of the Rio Grande, which do not permit the precise determination of the line which divides the two countries, it agrees that it is materially impossible for it to decide which country owned the locality where the seizure took place, or even the exact spot where it was effected, because, while the herders Valencia and Alvarez, declare that the seizure occurred on the Mexican side of the bed of the river, Blanchard, one of the seizors, maintains that it was made on the side belonging to the United States. He adds that the probability is that a part of the cattle were on the side belonging to the United States when they were confiscated, and that the other part were on the Mexican side of the boundary line; further, that the same may be said of the place where the herders were arrested. The report concludes with the concurrent opinion of the Commissioners that the weight of the testimony and the presumptions support the belief that the greater part of the cattle were seized nearer to the Mexican side of the broad bed of the river than to that of the United States, notwithstanding the opinion of Commissioner Mills that there was not sufficient testimony to establish, with any degree of certainty, the locality of the boundary line or the exact place of the seizure.

The exact place where the cattle were seized has consequently remained undetermined; and the question is thus in the same situation in which it was when the discussion was suspended in virtue of the note of the Department of State of April 18th, 1896.

Even supposing that the weight of testimony and the presumptions stated in the report of the Mixed Commission were not sufficient to decide the case in favor of the claimants, it may still be said that that report nullifies the allegations as to territorial jurisdiction presented to the United States Government, which were refuted by those made by the Mexican Government, as was admitted by the Department of State in its aforesaid note.

Now, since the cattle of Ornelas and his companions were seized for an alleged violation of the revenue laws of the United States, the fact of the crime of smuggling, which occasioned that proceeding, should have been fully proved. The proceeding in ques-

tion was arbitrary, when viewed in the light of international law, and was pronounced hasty by the Department of State in its note of July 25th, 1894. Proof of the alleged offense should undoubtedly have been secured before the animals were confiscated and sold.

Furthermore, Mr. McCoy, the Special Agent of the Treasury Department, after the examination which he made of the case, was of the opinion that the owners of the cattle were entitled to receive a sum equal to their *value in Mexico at the time when the seizure was made*, there being no evidence to show that there was any intention to smuggle the animals into the territory of the United States. In this opinion, and in the very respectable opinion of the Honorable W. Q. Gresham, Secretary of State, given in the note aforesaid, viz. that the hasty action of the Collector in selling the cattle after the complainants had remonstrated, deprived the owners of the opportunity of recovering their cattle, the justice of the claim of Ornelas, his companions and the two herders who were arrested was, by implication, recognized; and thence is derived the obligation of the United States Government to indemnify them by paying them the value of the cattle in Mexico at the time of their seizure, and the amount of the damages and losses which they have suffered in consequence of those illegal proceedings.

The Government of Mexico has therefore instructed this Legation to insist upon the payment of the claim of Ornelas *et. al.*, which it considers entirely justified by the reasons now set forth, and by the others which have been stated in previous communications, especially in the note of Mr. Mariscal, number 150, dated September 9th, 1895, a copy of which I transmitted to your Department with my note of the 18th of that month.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. JOHN SHERMAN, *etc, etc, etc.*

[Inclosure 1.]

[Translation.]

EL PASO TEXAS, *May 8, 1897.*

The Mixed Commission met at the office of the United States Commissioner in order to settle the question submitted to it for decision, viz: "To examine and ascertain the precise place where the cattle were seized and to report in which territory that place is." Considering the new statements of the deponents on both sides, and also the report and map presented by the consulting

engineers, which is enclosed, and in which are marked points connected with the depositions of the witnesses, the Commission deems it its duty to describe, for the information of the superior authorities, the unusual manner in which the Rio Grande runs, which can with difficulty be appreciated by authorities not familiar therewith. The Rio Grande runs through its alluvial valleys in a bed which is from four hundred to a thousand yards wide, and whose bottom, which is formed of fine loose sand, is constantly moved by the force of the current; so that even an engineer, without instruments to measure the depth of the water when the bed of the river is full, or to ascertain the level of its surface when it is dry, cannot determine where the boundary line is, within hundreds of yards. After several years, when, the river being full, the annual freshets have materially changed its bed owing to the sand moved by the force of the current, and when, it afterwards being dry, the wind moves the sand from the bed, it is wholly impossible to determine, scientifically, within several hundred yards, where the boundary line was at the time of the confiscation of the cattle and the arrest of the man on the 15th day of September, 1891. And, even if it were possible for the witnesses to reach an approximate agreement as to the "exact locality of the seizure," this was not done in the present case, as appears from the depositions taken; for, while the herders, Valencia and Alvarez, declare that it was on the Mexican side of the river's bed, Blanchard declares, with equal certainty, that the occurrence took place on the American side. The depositions which agree establish the fact, nevertheless, that there were two pools of water near the Mexican bank and also that there was a quagmire near the opposite American bank. From this it may be inferred that when the river ceased to flow, the boundary line may have remained at one of these two points, since the channel which contains the last current would doubtless have been declared to be the channel forming the boundary; it was, however, impossible to secure any testimony to determine through which of the two channels the last current of water passed. The Mixed Commission, therefore, much to its regret, is compelled to agree that it has been materially impossible for it, after this lapse of time, to settle the question of the ownership of the point where the seizure took place, and even the exact spot, with absolute certainty.

The probability is that a part of the cattle were on the American side when they were confiscated, and the other part on the Mexican

side of the boundary line, and this also might be said with respect to the place where one or both of the herders were arrested.

The Mexican Commissioner then stated that he thought that the weight of testimony and the presumptions supported the belief that the greater part of the cattle were seized nearer to the Mexican bank of the broad dry bed of the river than to that of the United States, to which the American Commissioner agreed; the latter, however, insisted that there was not sufficient testimony to establish, with any degree of certainty, the locality of the boundary line or the exact place of the seizure.

In order to reach these conclusions, the Commissioners considered not only the depositions taken by them, viz: those of the two herders, Valencia and Alvarez, and that of Blanchard, but also those taken by the United States Commissioner, McKie, on the 17th day of September, 1891, which were among the papers sent to us. We call attention to the statements therein contained of Salomon Téllez and Juan Pedraza (Pedras), witnesses for Mexico. It was impossible for us to examine these last two witnesses; we could not examine Pedraza, because he was dead, and could not examine Téllez, because we could not find him.

The Mixed Commission then adjourned to meet again on Wednesday, May 11th, at 11 a. m., to finish the proceedings relating to the case of the Island of San Elizario No. 10, and No. 11 concerning the confiscation of the cattle.

F. JAVIER OSORNO
S. F. MAILLEFERT

ANSON MILLS
JOHN A. HAPPER.

I certify that the foregoing is a true copy.

S. F. MAILLEFERT,
Secretary.

[Inclosure 2.]

[Translation.]

EL PASO, TEXAS, *May 3, 1897.*

Messrs. COMMISSIONERS:

In pursuance of the decision of the Commission reached April 26th, of the present year, we have the honor to present to you the enclosed topographical sketch of the ford in the Rio Grande between the villages of Isleta and Zaragoza and details connected therewith, with a view to aiding you in forming a well founded opinion for the decision which it is desired to reach in the case of the seizure of the cattle, No. 11.

The lines marked in our drawing which correspond to the survey which we made on the 27th and 28th of April last, show the present topography of the river and of the points connected with the place in question. The places which were pointed out to us, under protest, by the two Mexican witnesses, as the points where they were arrested, are marked with black squares, followed by explanatory notes.

You will thus be able to see that the distance in the direction of the ford between the edge of the old land on the American side and the same on the Mexican side is about eight hundred metres; and that this distance is maintained, more or less, throughout the extent of the river which is included in our survey (*levantamiento*).

We have only placed in the drawings the borders, which we fixed topographically in following our lines with the instrument, and we therefore omitted the continuation of their contours along the river, since we did not follow it step by step, in order to be able to represent them with precision in the drawing. These high borders of the basis of the bed of the river are about three metres in height above the bank.

The lines in blue ink were taken from a drawing made in December, 1892, by the Mexican engineer, Felipe Zavalza, now deceased, which drawing, with other documents, was placed in the hands of the Commission that it might serve in the present examination.

Comparing our survey with engineer Zavalza's drawing, some variations will be observed; but the variations noted are very small in comparison with what they might have been and with what it was to be expected that they would be, in view of the variable character of the current of the Rio Grande.

The green lines represent the topography of the bed according to Map No. 29 of Emory-Salazar, made in the year 1852, on a scale of 1:60,000 enlarged by us twelve times. For this the only common point which we were able to determine of the aforesaid map, in order to compare it with our topography, was the intersection of the great trench with the public road to the village of Isleta. This intersection now corresponds to the place where the principal street of the said village, extended, cuts the trench; and not where this detail exists in the locality, since the bridge is now about two hundred metres south of the point which we have adopted for reference. The reason which led us to adopt this point was that if we took the bridge itself as our point of reference, the river would fall outside of the basin, on the high land of old soil, which, as we already remarked, is three metres above the bottom of the

bed; this is not acceptable, since the said land presents no vestiges of having been covered by the river, for many generations at least, or perhaps never, to speak more properly. With the point which we have adopted, however, that objection does not exist for, in this case, the river of Salazar certainly falls in the land within the basin and its connections with the high borders. And although the locality of the river of Salazar does not appear as precisely as we could wish, it nevertheless has an approximation which, in our opinion, is sufficient (inasmuch as it follows very nearly the present channel) to show that, throughout the extent of our survey in the locality in question, no avulsion has taken place since the year 1852, and, consequently, we are justified in reaching the conclusion that the boundary line has remained and still remains in the centre of the deep channel of the river, and therefore we have represented it in our drawing, on the river itself by the name of "Main Channel of the Rio Grande in April, 1897."

Since 1852 the river may have covered, and probably has, at various times, successively covered all the points of the surface between the borders mentioned; but, as these movements have been due to erosion and deposit, the boundary line has followed the same movements, as contained in the channel itself.

We reiterate to you the assurance of our respectful consideration.

W. W. FOLLETT,

Consulting Engineer.

E. CORELLA,

Consulting Engineer.

I certify that the foregoing is a true copy.

S. F. MAILLEFERT,

Secretary.

Mr. Sherman to Señor Romero.

DEPARTMENT OF STATE,

WASHINGTON, *September 10, 1897.*

Senor Don MATIAS ROMERO,

&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 22nd of July last, in relation to the seizure, in 1891, of the cattle of Mr. J. Nopomnoono Ornelas and other Mexican citizens, by the Customs Officers of the United States near El Paso, Texas, and stating that, in view of the inability of the International (Water) Boundary Commission to locate the spot where the seizure took place, and of the other reasons given in your note, you are directed

by your Government to insist upon the payment of the claim of Mr. Ornelas, and the other Mexican citizens.

In reply I beg to inform you that a copy of your note and of its enclosures has been sent to the Secretary of the Treasury for his consideration.

Accept, etc.,

JOHN SHERMAN.

Mr. Sherman to Mr. Clayton.

No. 109.

DEPARTMENT OF STATE,
WASHINGTON, *September 13, 1897.*

POWELL CLAYTON, Esquire,
etc. etc.

SIR:

I enclose herewith a copy of a note addressed by my predecessor on February 29, 1896, to Mr. Romero, the Minister of Mexico to the United States, with an accompanying tentative draft of an amendatory convention embracing an article framed in accordance with the recommendations of the International (Water) Boundary Commissioners, set forth in their joint report of January 15, 1895, looking to the settlement of difficulties which the Commissioners have encountered in applying the provisions of the Convention of 1884 and 1889 to questions affecting the numerous isolated "bancos" on either side of the Rio Grande from El Paso to the sea. These difficulties are so fully set forth in the note to Mr. Romero and the draft convention that it is not necessary to recite them herein.

On the same day Mr. Romero informed Mr. Olney that he had referred the matter to his Government, since when the Department has received nothing from him or the Mexican Government relative thereto.

It being impracticable for the Commission to take up the case of any of the bancos until this question is definitely decided, you are instructed to favorably recall the matter to the attention of Mr. Mariscal, and inquire of him whether his Government has reached a determination thereon, and when we may expect a reply.

Respectfully yours,

JOHN SHERMAN.

Enclosures: To Mexican Minister, February 29, 1896, with draft of Convention as above.^a

^a [For this enclosure see *supra*, p. 916.—Agent's note.]

Mr. Clayton to Mr. Sherman.

No. 117.

LEGATION OF THE UNITED STATES,
MEXICO, *September 22, 1897.*

To the Honorable JOHN SHERMAN,
Secretary of State,
Washington, D. C.

SIR:

I have the honor to inform you that, following the instructions contained in your No. 109, of the 13th instant, I had an interview with Mr. Mariscal today regarding the amendatory Convention relating to the numerous isolated "bancos" on either side of the Rio Grande from El Paso to the sea. I advanced all the arguments that were presented to my mind in favor of the Convention. Mr. Mariscal believed the matter had been referred to the Bureau of Engineers. At his request, I addressed him a note, copy enclosed herewith, containing your instructions and inquiring whether the Mexican Government has reached a determination regarding the matter.

I have the honor to be, Sir,
Your obedient servant,

POWELL CLAYTON.

Enclosure: Mr. Clayton to Mr. Mariscal, Sept. 22, 1897.

[Inclosure.]

Mr. Clayton to Señor Mariscal.

LEGATION OF THE UNITED STATES,
MEXICO, *September 22, 1897.*

His Excellency
IGNACIO MARISCAL,
Minister for Foreign Affairs,

Mr. MINISTER:

On February 29th, 1896, Mr. Olney, Secretary of State of the United States, addressed a note to Mr. Romero, the Minister of Mexico in the United States, forwarding a draft of an amendatory Convention embracing an article framed in accordance with the recommendations of the International (Water) Boundary Commissioners, set forth in their joint report of January 15, 1895, looking to the settlement of difficulties which the Commissioners have encountered in applying the provisions of the Conventions of 1884 and 1889 to questions effecting the numerous isolated "bancos" on either side of the Rio Grande from El Paso to the sea. On the same day Mr. Romero informed Mr. Olney that he

had referred the matter to his Government, since when the Department of State has received nothing from him or the Mexican Government relative thereto. It being impracticable for the Commission to take up the case of the "bancos" until this question is definitely decided, I am instructed to recall the matter to Your Excellency's attention and inquire whether your Government has reached a determination thereon, and when we may expect a reply.

I renew, etc..

POWELL CLAYTON.

Mr. Clayton to Mr. Sherman.

No. 135.

LEGATION OF THE UNITED STATES,
MEXICO, *October 1, 1897.*

To the Honorable JOHN SHERMAN,
Secretary of State, Washington, D. C.

SIR:

Referring to your No. 109, of September 13 1897, and to my No. 117, of September 22, 1897, concerning certain isolated "bancos" on either side of the Rio Grande, and the proposed amendatory convention relating to the difficulties encountered by the International Water Boundary Commissioners arising therefrom, I have this day received a reply from Minister Mariscal, copy and translation of which is herewith enclosed, to my note addressed to him on the 22nd day of September, 1897, in which he states that the proposition of the United States Department of State, transmitted through the Mexican Legation at Washington, was taken up and examined with the attention which its importance demanded. He refers to some difficulties arising from the absence of topographical data, which he states has made it impossible for his Department to render a definite resolution; but expresses the willingness of the Mexican Government to make any amendments under the treaty that will avoid future difficulties; and expresses a desire, for the purposes of arriving at such a definite resolution, that both Governments should issue new instructions to their Commissioners, so that a more detailed report may be made by the Commissioners with the aid of the forthcoming map to facilitate procedure with the said amendments.

I have the honor to be, sir,

Your obedient servant,

POWELL CLAYTON.

Enclosures:

1. Mr. Mariscal to Mr. Clayton, Sept. 27, 1897.
2. Translation of the above.

[Inclosure 1.]

Señor Mariscal to Mr. Clayton.

[Copy.]

SECRETARIA DE RELACIONES EXTERIORES,
MÉXICO, 29 de Sept. de 1897.

Señor MINISTRO:

Refiriéndome á la nota de Vuestra Excelencia de 22 del que cursa, tengo la honra de manifestarle que al recibirse en esta Secretaría, por conducto de la Legación de Mexico en Washington, la proposición del Departamento de Estado de los Estados Unidos, relativa á la reforma de los artículos I y II de la Convención de 12 de Noviembre de 1884, se procedió al estudio del asunto con la atención que su importancia merece.

Algunas dificultades, principalmente por falta de datos topográficos del rio Bravo, los que se han procurado obtener, han impedido á la Secretaría de mi cargo acordar la resolución definitiva, á pesar de que el Gobierno de Mexico está conforme en hacer al tratado modificaciones que eviten para lo futuro nuevas dificultades.

Con este fin, el Gobierno de Mexico desearía que para dicha resolución definitiva diesen ambos Gobiernos á sus comisionados nuevas instrucciones para que, aprovechando los datos seguros y precisos que proporcione el próximo levantamiento del plano del expresado rio, desde Rio Grande City hasta la desembocadura, según lo aprobado por ambos Gobiernos, puedan dar un informe mas circunstanciado, que permita proceder, con conocimiento de causa, á las reformas expresadas.

Reitero á Vuestra Excelencia las seguridades de mi muy distinguida consideración.

IGNO. MARISCAL.

A Su Excelencia

POWELL CLAYTON,

etc., etc., etc.

[Inclosure 2.]

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,
MEXICO, Sept. 27th, 1897.

Mr. MINISTER:

Referring to Your Excellency's note of the 22nd instant, I have the honor to inform you that, upon receipt by this Department of the proposition by the U. S. Department of State, transmitted

through the Mexican Legation at Washington, relative to the amendments of Article 1 and 2 of the Convention of November 12, 1884, the matter was taken up and examined with the attention which its importance demands.

Some difficulties, principally the absence of topographical data, regarding the Rio Bravo, which data we have endeavored to obtain, have made it impossible for this Department to render a definite resolution, notwithstanding the fact that the Government of Mexico is willing to make any amendments in the treaty that will in future avoid new difficulties.

With this end in view, the Mexican Government would like that, for the purpose of arriving at such a definite resolution, both Governments would issue new instructions to their Commissioners, so that, profiting by the sure and precise data to be obtained from the forthcoming map to be drawn of the said River from Rio Grande City to its mouth, as per approval by both Governments, they may render a more detailed report, which will, with the due study of the case, permit procedure with the said amendments.

I reiterate to Your Excellency the assurances of my high regard.

IGNO. MARISCAL.

His Excellency

POWELL CLAYTON,

etc., etc., etc.

Mr. Sherman to Mr. Clayton.

No. 157.

DEPARTMENT OF STATE,

WASHINGTON, *October 26, 1897.*

POWELL CLAYTON, Esquire,

etc. etc.

SIR:

I have to acknowledge the receipt of your No. 135, of the 1st instant, concerning the proposed amendatory convention for establishing the boundary of certain isolated "bancos" on either side of the Rio Grande.

Mr. Mariscal states in his note of September 29, 1897, that because of the absence of topographical data his Government is unable to arrive at definite conclusion regarding the subject. He accordingly expresses the willingness of the Mexican Government to make any equitable amendments under the Treaty of November 12, 1884, that will obviate difficulties and suggests that both Governments issue new instructions to their respective Commissioners in order that a more detailed report may be framed by them.

A copy of your despatch was at once brought to the attention of General Anson Mills, the Commissioner of this Government. I enclose a copy of his reply dated the 15th instant, from which it appears that the Joint Commission, in its report of January 15, 1895, gave all the detailed information it was possible to give at that date, including maps and field notes of four typical "bancos" about equally distributed along the river between Rio Grande City and the Gulf of Mexico, the work being sufficiently accurate to enable the establishment of the necessary monuments around these "bancos" should they not, as suggested by the Joint Commission, be eliminated. In that report it was observed (see pages 10, 11 and 12) that there were 40 or 45 other "bancos" unsurveyed, which to similarly survey, would consume "several years" and if the Treaty was strictly adhered to, increase the length of the boundary in the short distance as it now exists, perhaps several hundred miles "at a cost to each nation of from one to two hundred thousand dollars."

General Mills continues, "When therefore the Joint Commission in its Journal of June 30th last asked authority of its two Governments to make a continuous survey of the River from Rio Grande City to the Gulf, it was done in anticipation of the elimination of the "bancos", or in the event they were not eliminated before the work was commenced, that only the River proper would be surveyed in detail, making simple sketches of the "bancos" on either side of the River as we passed them, this for two reasons: first, we fully expected their elimination; second, the funds at our disposal would not warrant, in our judgment, the commencement of such a prolonged and expensive work."

The letter of General Mills contains the information in detail, to which he refers, and which was doubtless submitted also directly to his Government, by the Mexican Commissioner. The letter of General Mills to Mr. Osorno, bears date June 25, 1897; whereas the Journal is dated June 30, 1897. In this connection reference is also made to my No. 109, of September 13, 1897, covering my immediate predecessor's note of February 29, 1896, setting forth the facts in detail as they were then understood.

It is not clear to this Government in view of the foregoing statement of facts, whether by "sure and precise data" Mr. Mariscal requires a complete survey of the "bancos" such perhaps as would entail no further expense than the establishment of the necessary monuments should they not be eliminated and the existing Treaty adhered to, or whether he prefers to rely upon such data as may be

acquired from a detailed survey of the River proper, and sketches of the "bancos" on either side, as understood and proposed in the Journal of the Joint Commission of June 30, 1897.

As bearing upon this latter proposition, I enclose a copy of General Mills' letter of October 1, 1897, which contains Señor Osorno's proposition. In that he states that the most important point before the Joint Commission is the survey of the River from Rio Grande City to the Gulf, and adds: "I am happy to say, that Mr. Mariscal agrees completely with our report so far as the importance of the survey is concerned, as also in the convenience for the engineers to begin their survey at the time we have decided upon." The only disagreement appears to be "that Mr. Follett should take singly the management of the survey."

The telegraphic reply to Mr. Osorno from General Mills of September 14, 1897, reads in part as follows: "Amendment agreeable to me provided work is divided into not more than two sections as nearly equal as practicable."

Now, in case this proposition is acceptable to the Government of Mexico, the Department is willing to authorize General Mills to proceed at once with the work as arranged and proposed in the correspondence between the Mexican Commissioner and himself, as agreeably to General Mills' letter of October 1, 1897.

If, however, the former proposition is understood and a detailed survey of each "banco" (such as will enable the establishment of the necessary monuments around them without further survey in case they be not eliminated) should be required, it is believed that the present and the following winter will be consumed in the field work alone. The cost to each Government, if this course is pursued, will besides be considerable.

You may say to Mr. Mariscal, that this Government is willing to instruct General Mills to begin at once the survey of the river proper, indicating by appropriate sketches the "bancos" on either side of the boundary line. To do more than this at the present time is impossible, owing to the lack of a sufficient appropriation and the delay that must inevitably occur, in case a more detailed survey is required, in obtaining the necessary funds from Congress.

It is hoped that this presentation of the matter will commend itself to the Mexican Government, and that I may be advised briefly by telegraph of the decision of that Government, to the end that General Mills may immediately begin operations. If this course is acceptable to Mexico, it is believed that the proposed treaty amendments may be held in abeyance until such

time as each Government may come into possession of the results of this joint labor of the Commission.

The importance of this subject naturally suggests that you give it immediate consideration, and as promptly as possible apprise this Government, as I have previously indicated, of the decision of that of Mexico in the premises.

Respectfully yours,

JOHN SHERMAN.

Enclosures:

From General Mills, October 1, 1897.

From General Mills; October 15, 1897.

[Inclosure 1.]

General Mills to Mr. Sherman.

DEPARTMENT OF STATE.

INTERNATIONAL (Water) BOUNDARY COMMISSION.

UNITED STATES and MEXICO.

Treaties of 1884 and 1889.

NO. 2 DUPONT CIRCLE,

WASHINGTON, D. C.,

October 1st, 1897.

To the Honorable

The SECRETARY OF STATE *Washington D. C.*

SIR:—

I have the honor to enclose herewith a copy of a letter from the Mexican Commissioner, dated September 4th communicating to me the action of his Government on the proposition of the Joint Commission for a continuous survey of the Rio Grande, from Rio Grande City to the Gulf, dated June 30th last, and now before your Department.

I enclose also a copy of my telegraphic reply to the Mexican Commissioner, dated September 14th, as well as his response thereto by wire dated on yesterday, which I think will give you a full understanding of the case and respectfully recommend and request that the survey be authorized, as proposed by the Commissioners, and agreed to by the Mexican Government.

Regarding the elimination of the Bancos, as recommended in the Report of the Joint Commission dated January 15th, 1895; there seems from the telegram of the Mexican Commissioner to have been some misunderstanding between the two governments, which is now to be remedied, and I beg to remark that it is of very great importance, that a decision be had on this question before

we commence work on the proposed survey, more especially so, as it is reported that the River has made another great change at the very starting point of the proposed survey, (Rio Grande City) moving into Mexico towards the City of Camargo, leaving some twelve hundred acres on the Texas side, and involving the "Banco de Camargo" one of the bancos surveyed by the Commission in 1895 a formal decision upon which has been suspended, pending a determination by the two governments, as to the elimination of bancos of its class, from a literal construction of the language of existing treaties, and until this determination is had by the two governments it will be very difficult and embarrassing, for the Joint Commission, to treat intelligently and finally this and other bancos of its class.

I therefore respectfully request, that if practicable, that the question of elimination be determined at the same time as the approval of the survey.

I have the honor to be

Very respectfully your obedient servant

ANSON MILLS

Brigadier General U S Army (retired) Commissioner.

[Sub-Inclosure 1.]

Mr. Osorno to General Mills.

COMISION INTERNACIONAL DE LIMITES

Correspondencia Particular

MEXICO CITY, *September 4th 1897.*

General ANSON MILLS

No. 2 Dupont Circle Washington D C

MY DEAR GENERAL:—

I refer to the letter that you wrote to Mr. Maillefert on the 10th ult.

I understand that through Mr. Romero you have received notice that the Hidalgo case has been approved by the Mexican Government, and we must congratulate ourselves that our decisions in the last cases have deserved the approval of our respective Governments.

Regarding the edition of the book and map of the San Elisario case No. 10 I must say that our Department will take twenty copies, because we will publish the work of the Commission in a special book and probably the maps would not fit our proposed shape.

As to the most important point before the joint commission, to wit, the survey of the river from Rio Grande City to the Gulf, I am happy to say that Mr. Mariscal agrees completely with our report, as far as the importance of the survey is concerned, as also in the convenience for the engineers to begin their survey at the time we have decided upon.

Our Department disagrees in only the point that Mr. Follett should take singly the management of the survey. I am, therefore, authorized to propose to you that the survey alongside the river be made by intermediate or alternate sections, odd or even numbers belonging to one or the other nation, and the work of one commission to be revised by the consulting engineer of the other.

The engineers on the field to report their labors monthly to the joint commission for approval and to enable it to correct any unjustifiable delay.

Such are the points which I propose to you under the advice of my Government, but please suggest whatever other means you think proper and no doubt that any decision reached will be, as customary with us, in perfect good will and harmony and a practical benefit for our Governments.

As soon as we can agree on this matter, we can affix our signatures to the record the day that we meet.

I have not received any answer to my telegram of the 31st, but as I said, Mr. Zayas (who left the City this morning) will meet Mr. Follett, with the proper instructions.

I am my dear General

Very respectfully your obedient servant

F. JAVIER OSORNO.

[Sub-inclosure 2.]

[Telegram.]

Mr. Osorno to General Mills.

MEXICO *September 30th 1897*

To General ANSON MILLS

2 Dupont Circle Washington D C

My Government agrees to survey being made in two sections as you suggest. As to proposed convention eliminating Bancos our foreign department has no notice of official action by the United States purporting modification of articles of convention but is now considering this matter

F. JAVIER OSORNO

Comisionado

[Sub-enclosure 1.]

[Telegram.]

*General Mills to Mr. Osorno.*WASHINGTON D C *September 14th 1897.*

F. JAVIER OSORNO

*Commissioner**City of Mexico*

Amendment agreeable to me provided work is divided into not more than two sections, as nearly equal as practicable, if this meets your approval, wire me that I may get my Department approval.

My Government submitted draft of Treaty to yours, over a year ago, eliminating Bancos as recommended by us; but Mexico has not acted: cant you look the matter up, and get it accomplished before we commence work, so that we may treat the bancos intelligently and finally?

ANSON MILLS

Commissioner

[Inclosure 2.]

General Mills to Mr. Sherman.

NO 2 DUPONT CIRCLE

WASHINGTON D C

October 15th 1897

To the Honorable

The SECRETARY OF STATE

Washington D C

SIR:—

I have the honor to acknowledge the receipt of your communication of the 13th instant, enclosing, for my consideration and reply, copy of a dispatch from the Minister of the United States at Mexico City, transmitting the answer of the Mexican Government to the proposition of the United States for an amendatory convention to establish the boundary of certain isolated "bancos" on either side of the Rio Grande.

The Mexican Minister of Foreign Relations states that it is impossible for his Department to render a definite resolution, until, profiting by the sure and precise data to be obtained from the forthcoming map to be drawn of the said river from Rio Grande City to its mouth, as per approval of both governments, and a more detailed report, together with the due study of the

case, will permit procedure with the said amendments. In reply, I beg to explain, that the Joint Commission, in its Report (printed) of January 15th, 1895, gave all the detailed information possible to give at that date, including maps and field notes of four typical "bancos" about equally distributed along the River between Rio Grande City and the Gulf, the work being sufficiently accurate to enable the establishment of the necessary monuments around said "bancos" should they not, as suggested by the Joint Commission, be eliminated.

In the same Report, see pages 10. 11. and 12. it was stated that there were 40 or 45 other "bancos" unsurveyed, which to similarly survey, would consume "several years" and if the Treaty was strictly adhered to increase the length of the boundary, in the short distance, as it now exists, perhaps several hundred miles, "at a cost to each nation of from one to two hundred thousand dollars".

When therefore the Joint Commission in its Journal of July 2nd last asked authority of its two governments to make a continuous survey of the River from Rio Grande City to the Gulf, it was done in anticipation of the elimination of the "bancos", or in the event they were not eliminated before the work was commenced, that only the River proper would be surveyed in detail, making simple sketches of the "bancos" on either side of the River as we passed them, this for two reasons; first we fully expected their elimination: second, the funds at our disposal would not warrant, in our judgment, the commencement of such a prolonged and expensive work.

It is not clear to me, from the statement of the Mexican Minister of Foreign Relations, whether by "sure and precise data" he requires a complete survey of the "bancos" such as would entail no further expense than the establishment of the necessary monuments, should they not be eliminated, and the present Treaty adhered to: or whether he expects to rely on such data as may be acquired from a detailed survey of the River proper, and sketches of the "bancos" on either side, as understood and proposed in the Journal of the Joint Commission of July 2nd 1897, before referred to.

If the latter, and I am authorized to proceed with the work at once, as arranged and proposed in the correspondence between the Mexican Commissioner and myself forwarded to you with my letter of the first instant, requesting that the survey be authorized

as therein proposed, I have now sufficient funds available to complete the work, save perhaps, the final or more finished maps, which will hardly be necessary for the desired information, "to permit procedure with the amendments." I therefore respectfully request authority to proceed with the survey accordingly, and ask an appropriation of \$25,000 to meet the expenses of the Commission for the Fiscal Year commencing July 1st next.

If however, the former is understood, that is to say, that a detailed survey of each "banco," (such as will enable the establishment of the necessary monuments around them without further survey in case they be not eliminated) is required, it will consume all this winter and the next perhaps to do the field work, costing each government, (if done as proposed in sections by each) probably \$75,000: if this be authorized, which I recommend only in case Mexico will not agree to the method first recommended, I respectfully request a deficiency appropriation of \$25,000 for this year, and a regular appropriation of \$50,000 for the Fiscal Year commencing July 1st next.

I have the honor to be

Very respectfully your obedient servant,

ANSON MILLS

Brigadier General U S Army (retired)

Mexican Boundary Commissioner.

Mr. Clayton to Mr. Sherman.

No. 168

LEGATION OF THE UNITED STATES,
MEXICO, *November 3, 1897*

To the Honorable JOHN SHERMAN,
Secretary of State, Washington, D. C.,

SIR:

Upon receipt of your No. 157, of the 26th ultimo, I addressed a note to the Foreign Office, copy enclosed, embracing your instructions concerning the proposed amendatory convention for establishing the boundary of certain isolated "bancos" on either side of the Rio Grande.

Upon delivering the note to Mr. Mariscal he stated he would give me an answer within two days.

I have the honor to be, sir,

Your obedient servant,

POWELL CLAYTON.

Enclosure: Mr. Clayton to Mr. Mariscal, November 3, 1897.

[Inclosure.]

Mr. Clayton to Señor Mariscal.

LEGATION OF THE UNITED STATES.

MEXICO, November 3, 1897.

His Excellency,

IGNACIO MARISCAL,

Minister for Foreign Affairs.

Mr. MINISTER:

Having on October 1st, 1897, transmitted to the State Department of the United States a copy of your note of September 27th, 1897, concerning the proposed amendatory convention for establishing the boundary of certain isolated "bancos" on either side of the Rio Grande, I am now in receipt of instructions from the State Department directing me to again bring the matter to your attention, to the end that a more explicit understanding may be had of your wishes.

In your note above referred to you state that, because of the absence of topographical data, your government is unable to arrive at a definite conclusion regarding the subject, but express the willingness of the Mexican Government to make any equitable amendments under the treaty of November 12, 1884, that will obviate the difficulties, and you suggest that both governments issue new instructions to their respective commissioners in order that a more detailed report may be framed by them.

I am informed by the State Department that a copy of your note was brought to the attention of General Anson Mills, the Commissioner of the Government of the United States. A copy of his reply is now before me, from which it appears that the Joint Commission, in its report of January 15, 1895, gave all the detailed information it was possible to give at that date, including maps and field notes of four typical "bancos" about equally distributed along the river between Rio Grande City and the Gulf of Mexico, the work being sufficiently accurate to enable the establishment of the necessary monuments around these "bancos" should they not, as suggested by the Joint Commission, be eliminated. In that report it was observed (see pages 10, 11 and 12) that there were 40 or 45 other "bancos" unsurveyed, which, to similarly survey, would consume "several years", and, if the treaty was strictly adhered to, increase the length of the boundary in the short distance as it now exists, perhaps several hundred miles, "at a cost to each nation of from one to two hundred thousand dollars."

General Mills continues: "When, therefore, the Joint Commission in its Journal of July 2nd. last. asked authority of its two governments to make a continuous survey of the River from Rio Grande City to the Gulf. it was done in anticipation of the elimination of the "bancos". or in the event they were not eliminated before the work was commenced. that only the river proper would be surveyed in detail. making simple sketches of the "bancos" on either side of the river as we passed them: this for two reasons: first, we fully expected their elimination; second, the funds at our disposal would not warrant, in our judgment, the commencement of such a prolonged and expensive work."

The Government of the United States is not clear, in view of the foregoing statement of facts, whether the "sure and precise data" you express a desire to obtain in your note above referred to, was to be based upon a complete survey of the "bancos," such, perhaps, as would entail no further expense than the establishment of the necessary monuments should they not be eliminated and existing treaty adhered to, or whether you preferred to rely upon such data as may be obtained from a detailed survey of the river proper with sketches only of the "bancos" on either side as understood and proposed in the Journal of the Joint Commission of June 30, 1897.

I have also before me copy of a letter from Gen. Mills, dated Oct. 1, 1897, to the Department of State, containing Señor Osorno's proposition in which he (Osorno) states that the most important point before the Joint Commission is the survey of the river from Rio Grande City to the Gulf, and adds: "I am happy to say that Mr. Mariscal agrees completely with our report so far as the importance of the survey is concerned, as also in the convenience for the engineers to begin their survey at the time we have decided upon." The only disagreement appears to be "that Mr. Follett should take singly the management of the survey."

From a copy of the telegraphic reply to Mr. Osorno from General Mills of September 14, 1897, I quote the following: "Amendment agreeable to me provided work is divided into not more than two sections as nearly equal as practicable."

I am instructed to say that the Government of the United States is willing to instruct General Mills to begin at once the survey of the river proper, indicating by appropriate sketches the "bancos" on either side of the boundary line; and to further say, that to do more than this at the present time, is impossible, owing to lack of a sufficient appropriation, and the delay that must inevitably occur

in case a more detailed survey is required, in obtaining the necessary funds from Congress.

I trust that the propriety of deviating from the strict requirements of the existing treaty so far as the survey of the "bancos" are concerned as presented in the foregoing, may commend itself Your Excellency, and if this course is acceptable to the Mexican Government, it is believed by the Department of State of the United States that the proposed treaty amendments may be held in abeyance until such time as our Governments may come into the possession of the results of this joint labor of the commission.

The Department of State has impressed upon me the necessity of prompt action upon my part, in view of which I trust it may please Your Excellency to place in my possession the conclusions of the Mexican Government as soon as it suits your convenience to do so.

I renew to Your Excellency the assurances of my high consideration.

POWELL CLAYTON.

Mr. Clayton to Mr. Sherman.

No. 187

LEGATION OF THE UNITED STATES.

MEXICO, *November 12, 1897.*

To the Honorable JOHN SHERMAN,

Secretary of State, Washington, D. C.

SIR:

Referring to your No. 157 of the 26th ultimo, and to my No. 168 of the 3rd instant, I have the honor to inform you that, today, upon receipt of a note from Mr. Mariscal, copy and translation enclosed, in reply to my note of the 3rd instant, I sent you a telegram, copy enclosed, stating the position of the Mexican Government in relation to the survey of the "bancos" of the Rio Grande. Mr. Mariscal says:

"The Mexican Government is in accord with the opinion of Mr. (General) Mills that in proceeding with the survey of the Rio Bravo from Rio Grande City to its mouth, simply sketches of the "bancos" be made, considering that this has always been the view of my Department."

I have the honor to be, sir,

Your obedient servant,

POWELL CLAYTON.

Enclosures:

1. Mr. Mariscal to Mr. Clayton, Nov. 10, 1897.
2. Translation of No. 1.
3. Mr. Clayton to Secy of State, Nov. 12, 1897.

[Inclosure 1.]

Señor Mariscal to Mr. Clayton.

[Copy.]

SECRETARIA DE RELACIONES EXTERIORES,
MEXICO, 10 de Noviembre 1897.

Señor MINISTRO:

Referiéndome á la nota de Vuestra Excelencia, de 3 del que cursa, tengo la honra de manifestarle que en mi nota de 29 de Septiembre del año actual, expuse que algunas dificultades, por la falta de datos topográficos del río Bravo, habian impedido acordar la resolución de la reforma de los artículos I y II de la Convención de 12 de Noviembre de 1884, y manifestaba los deseos que animan al Gobierno Mexicano para que se diesen á ambos Comisionados, de la Comisión internacional de límites fluviales, nuevas instrucciones para que, aprovechando los nuevos datos que debe proporcionales el próximo levantamiento del plano del río Bravo, emitiesen nuevo informe, que permitiese acordar la resolución definitiva.

El Gobierno Mexicano está de acuerdo con la opinion del Señor Mills para que, al procederse al levantamiento del plano del río Bravo desde Rio Grande City hasta su desembocadura, se hagan simplemente croquis (sketches) de los bancos, advirtiéndole que esta ha sido siempre la mente de la Secretaría de mi cargo.

Reitero á Vuestra Excelencia las seguridades de mi muy distinguida consideración.

IGNO. MARISCAL.

A Su Excelencia

POWELL CLAYTON,

etc., etc., etc.

[Inclosure 2.]

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,
MEXICO, November 10, 1897.

Mr. MINISTER:

Replying to your Excellency's note of the 3rd instant, I have the honor to inform you that in my note of September 29th, of this year, I stated that some difficulties arising from the lack of topographical data relating to the Rio Bravo had made it impossible to render a definite resolution regarding the amending of articles I and II of the Convention of November 12, 1884, and I

expressed the desire of the Mexican Government that new instructions be issued to both Commissioners of the International Water Boundary Commission, so that, profiting by the new data that the next survey of the Rio Bravo should furnish, they may make a new report which might permit a definite resolution.

The Mexican Government is in accord with the opinion of Mr. Mills that in proceeding with the survey of the Rio Bravo from Rio Grande City to its mouth simply sketches of the bancos be made, considering that this has always been the view of my Department.

I renew, etc,

IGNO MARISCAL.

His Excellency

POWELL CLAYTON,

etc, etc, etc.

[Inclosure 3.]

Mr. Clayton to Mr. Sherman.

[Telegram.—Paraphrase.]

MEXICO, *November 12, 1897.*

SHERMAN,

Secy State, Washington, D. C.

The reply of the Mexican Foreign Office states that Mexican Government agrees with General Mills that in making survey of Rio Bravo from Rio Grande City to Gulf simply sketches of the bancos be made and remarks that this has always been the view of the Mexican Department of Foreign Affairs.

POWELL CLAYTON.

• *Señor Romero to Mr. Sherman.*

LEGACION MEXICANA,

WASHINGTON, *Diciembre 25 de 1897.*

Señor SECRETARIO:

Tengo la honra de informar á usted que he recibido instrucciones telegráficas del Señor Mariscal, Secretario de Relaciones Exteriores del Gobierno Mexicano, fechadas ayer en la ciudad de México, para notificar al Gobierno de los Estados Unidos, antes de que expire el plazo fijado al efecto por el artículo VIII de la Convencion de 1º de Marzo de 1889, que el Gobierno de México desaprueba las resoluciones de la Comision Internacional de Límites fluviales consignadas en el párrafo séptimo de la acta de 27 de

[illegible][illegible]

M. E. VOSSE.

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

SECRET

‘ ‘ ‘

Mr. Sherman to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *December 29, 1897.*

Señor Don MATIAS ROMERO,
&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 25th instant, informing me that you had received telegraphic instructions from your Government to notify this Government before the expiration of the term fixed to that end by Article VIII of the Convention of March 1st, 1889, that the Government of Mexico disapproves the decision of the International River Boundary Commission, set forth in the seventh paragraph of the minutes of the 27th of November last, in regard to changing jurisdiction over the bancos, and in the last clause of the eighth paragraph in regard to the inclusion of bancos according to their dimensions, as well as the decision approved in the minutes of the 3rd instant in regard to the channel of the Rio Grande at El Paso.

Awaiting the receipt of the promised reasons upon which the Government of Mexico bases this determination,

I beg you to accept, &c., &c.,

JOHN SHERMAN.

Señor Romero to Mr. Sherman.

LEGACION MEXICANA,
WASHINGTON, *Enero 6 de 1898.*

Señor SECRETARIO:

Tengo la honra de informar á usted que he recibido una comunicacion del Señor Mariscal, Secretario de Relaciones Exteriores de los Estados Unidos Mexicanos, fechada en la ciudad de México el 29 de Diciembre próximo pasado, que contiene las razones en que se fundó el Gobierno de México para no aprobar las resoluciones de la Comision Internacional de Límites fluviales consignadas en el párrafo séptimo del acta de 27 de Noviembre último, sobre cambiar jurisdiccion de bancos, y en el final del párrafo octavo, sobre inclusion de bancos segun dimensiones, y en el acta de 3 de Diciembre siguiente, sobre canal del Bravo en El Paso, á las cuales me referí en la nota que dirigí á usted el 25 de Diciembre citado.

Esas razones consisten en que en el párrafo séptimo del acta de 27 de Noviembre se dice que “deberán, además, los ingenieros rendir los informes conducentes para que la Comision pueda cambiar la jurisdiccion de un país al otro.” El Gobierno de México cree que probablemente la Comision quiso referirse á la facultad que conforme al tratado tiene para estudiar los casos que se le sometan y proponer á los dos Gobiernos lo que considere conveniente se resuelva sobre cambios de jurisdiccion; pero como los términos en que ha expresado esta idea, en el mencionado párrafo, dan á entender que la Comision se atribuye la facultad de “cambiar la jurisdiccion de un país á otro,” lo cual es contrario á la Convencion internacional que la creó, el Gobierno de México ha juzgado necesario no aprobar la parte del acta á que me he referido, mientras no se modifique en términos convenientes.

Respecto al final del párrafo octavo de la misma acta, debo manifestar á usted que, no considerando satisfactorias el Gobierno Mexicano las explicaciones que hasta ahora se han dado acerca de la determinacion de forma y dimensiones, para su accesion al territorio contiguo, de los llamados bancos, tampoco puede aprobarlo, por tratarse de un punto sometido á nuevo estudio para la resolucion definitiva de la reforma de los artículos I y II del tratado de 12 de Noviembre de 1884.

No está el Gobierno de México autorizado para ceder porcion alguna del territorio mexicano, ni aun cuando, como se expresa en el acta de la Comision, de 3 de Diciembre próximo pasado, el terreno sea de un particular y éste quiera cederlo; y por esta razon el Gobierno Mexicano ha rehusado aprobar la parte de esa acta á que me refiero. Cree, sin embargo, que estudiándose el asunto cual corresponde, acaso se encuentre el medio de zanjar esa dificultad, para que se pueda hacer la rectificacion del Bravo por medio de un canal que habrá de cortar dicho terreno, lo cual es sin duda muy conveniente.

El Gobierno de México ha aprobado las actas de 27 de Noviembre, 2, 3 y 4 de Diciembre de 1897, con excepcion de los puntos indicados en esta nota.

Sírvase usted aceptar, Señor Secretario, las seguridades de mi más distinguida consideracion.

M. ROMERO

Hon. JOHN SHERMAN,
etc. etc. etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *Jan. 6, 1898.*

Mr. SECRETARY:

I have the honor to inform you that I have received a communication from Señor Mariscal, Secretary of Foreign Relations of the United Mexican States, dated the City of Mexico, the 29th of December last, giving the reasons which influenced the Government of Mexico to withhold its approval of the decisions of the International Water Boundary Commission as set forth in the 7th paragraph of the protocol of the 27th November last in regard to changing the jurisdiction over the bancos, and in the last clause of the 8th paragraph in regard to the inclusion of bancos according to their dimensions, also in the protocol of the 3d of December following concerning the channel of the Rio Grande at El Paso,—to which I referred in the note which I addressed to you on the 25th ultimo.

These reasons are that in the 7th paragraph of the protocol of the 27th November it is said that “the engineers must, moreover, submit full reports in order that the Commission may change the jurisdiction from one country to the other.” The Government of Mexico thinks that probably the Commission wished to refer to the authority which, under the treaty, it has for examining the cases submitted to it, and to propose to the two Governments what may be considered proper for determining upon changes of jurisdiction; but as the language in which this idea is expressed in this cited paragraph gives one to understand that the Commission attributes to itself the authority to “change the jurisdiction from one country to another”—which is contrary to the international agreement that created it—the Government of Mexico has deemed it necessary not to approve the part of the protocol to which I have referred, while it is not modified in proper terms.

In regard to the last clause of the 8th paragraph of the same protocol, I must state to you that, the Mexican Government not deeming satisfactory the explanations which up to this time have been given relative to the determination of form and dimensions of the so-called bancos, for their inclusion in the contiguous territory, neither can it approve that part of the paragraph because it treats of a point submitted to fresh examination for definite determination upon a modification of articles I and II of the treaty of the 12th of November, 1884.

The Government of Mexico is not empowered to cede any portion of Mexican territory, not even when, as is stated in the protocol of the Commission of December 3d last, the land may be of a particular kind and it may be wished to cede it; and for this reason the Mexican Government has refused to approve the part of that protocol to which I refer. It thinks, nevertheless, that, upon the subject being examined into as it should be, a way of removing that difficulty may perhaps be found, in order that the improvement may be made in the Rio Grande by means of a channel which will have to cut through said land which, without doubt, is entirely proper.

The Government of Mexico has approved the protocols of November 27th and of the 2d, 3d and 4th of December, 1897, with exception of the points indicated in this note.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. JOHN SHERMAN, *etc. etc.*

Mr. Sherman to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *January 10, 1898.*

Señor Don MATIAS ROMERO,
 &c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 6th instant containing the reasons assigned by the Government of Mexico for disapproving certain decisions of the International Water Boundary Commission, as expressed in its protocol of November 27th and December 3rd, 1897.

Accept, &c.,

JOHN SHERMAN.

Señor Romero to Mr. Day.

LEGACION MEXICANA,
WASHINGTON, *Junio 7 de 1898.*

Señor SECRETARIO:

En las notas que dirigí á ese Departamento el 25 de Diciembre de 1897 y el 6 de Enero siguiente, le comuniqué los términos en que el Gobierno de México aprobaba las actas de la Comision Internacional de Limites fluviales, del 27 de Noviembre y 3 de Diciembre de 1897 y las razones por las cuales no podia conceder su ~~aprobacion~~ ^{aprobacion} á ciertas estipulaciones contenidas en dichas actas.

Ahora tengo la honra de manifestar á usted que he recibido instrucciones del Señor Mariscal, Secretario de Relaciones Exteriores de los Estados Unidos Mexicanos, fechadas el 24 de Mayo próximo pasado, para comunicar á usted que el Gobierno de México está conforme en que se lleven á efecto los demas acuerdos contenidos en dichas actas, que no han sido objetados por él, y para mayor claridad, me envia copia de esas actas, convenientemente corregidas en la forma que el Gobierno Mexicano las aprueba, á fin de llevarlas á efecto desde luego, si el Gobierno de los Estados Unidos no tuviere inconveniente para ello. Acompaño á usted copias en inglés y español de las dos actas expresadas, y le agradeceré se sirva decirme si el Gobierno de los Estados Unidos acepta las correcciones hechas por el de México.

Sirvase usted aceptar, Señor Secretario, las seguridades de mi mas distinguida consideracion.

M. ROMERO.

Hon. WILLIAM R. DAY,
etc. etc. etc.

Anexos: Actas expresadas.

[Inclosure 1.]

LAREDO, TEXAS, *Noviembre 27 de 1897.*

La Comision Mixta se reunió en el Hotel Hamilton á las 2 P. M. para tratar del proyectado levantamiento topográfico completo del Rio Grande (Rio Bravo) desde Rio Grande City, Texas, y Camargo, Tamaulipas, hasta su desembocadura en el Golfo de México, con el objeto de facilitar á ambos gobiernos la decision final respecto á la modificacion del tratado de 1884, segun lo propuso la Comision Mixta, en su informe de fecha 15 de Enero de 1895, y consiste en descartar los bancos de la norma á que los sujeta dicho tratado.

Ambos comisionados manifestaron que estaban autorizados por sus respectivos gobiernos para proceder al levantamiento topográfico del rio, como se dijo antes, con tal que el rio tan sólo, quede señalado con la exactitud y los pormenores necesarios para establecer la línea divisoria y que los bancos de ambos lados se delineen por medio de diseños adecuados lo bastante para que cada gobierno tenga conocimiento exacto de su extencion y localizacion, así como de la direccion de la línea limítrofe internacional al rededor de ellos para el caso en que dichos bancos aislados no queden segregados de la norma á que los sujeta el tratado tal cual lo propone la Comision Mixta.

Se convino, ademas, que la mencionada parte del rio se dividiera en dos secciones y que cada comision tomase á su cargo el levantamiento especial de cada una de ellas y que los ingenieros consultores se visitasen uno á otro conforme adelanten los trabajos, para comparar y apreciar suficientemente el modo y manera con que se lleven á cabo dichos levantamientos, con el objeto de comprobar que se han hecho de manera acertada y uniforme, y de tal modo que cuando cada una de las comisiones haya terminado su parte, pueda la otra firmar los mapas é informes del levantamiento total.

Los comisionados llamaron, en seguida, á sus respectivos ingenieros para una consulta general acerca de la division, manera y método de los levantamientos.

Despues de madura discusion del asunto en general, en la que tomaron parte los comisionados y sus ingenieros, se resolvió que lo mas ventajoso era hacer los trabajos en botes, construidos aquí, y bajar con ellos el rio. Cada comision empezará sus trabajos en la extremidad superior de la parte que le está asignada é irá bajando con sus embarcaciones á medida que adelante en su levantamiento.

El punto de division se convino [en] que fuera el Rancho de los Fresnos (Tamaulipas), cerca y abajo de Santa María, Texas, quedando asignado á los Estados Unidos la parte superior y á México la inferior.

Quedó resuelto, en seguida, que la escala de los mapas del levantamiento general fuera de uno á cinco mil, y que la topografía del rio propiamente dicho en toda su longitud, sería hecha en la propia escala marcando de una manera precisa la connexion ó localizacion de cada uno de los bancos ya esten parcial ó totalmente aislados en ambas riveras, y con el objeto de facilitar la colocacion de los monumentos necesarios para marcar su localizacion y nacionalidad, en caso de que dichos bancos queden fuera de los tratados. Deberán, ademas, los ingenieros rendir los informes conducentes para que los comision[ados puedan dictaminar de acuerdo con] pueda cambiar la jurisdiccion de un país á otro, segun lo [que] propuso la Comision Mixta [en] con fecha 15 de Enero de 1895 en su mencionado informe.

Como quiera que los ingenieros pudieran encontrar alguna dificultad en saber de una manera positiva si un banco se formó antes ó despues de la topografía de Emory y Salazar, ó si un estero—bayou—revela un banco de una manera segura, se les recomienda incluyan en el levantamiento de dichos bancos todos aquellos que

tengan la probabilidad de haberse formado despues del levantamiento de Emory y Salazar y que tengan además menos latitud sobre el rio que longitud en ángulo recto con el.

La topografía de los bancos deberá hacerse con la exactitud necesaria para darles su forma aproximada, localizacion, area, grado de cultivo, número de habitantes, y construcciones, presunto dueño con indicacion de su nacionalidad, todo con el objeto de que los gobiernos respectivos, puedan á primera vista apreciar su valor aproximado, extension, (locacion) y número de los que tendrían que pasar de la jurisdiccion de un país á otro, en caso de que los bancos lleguen á descartarse de los Tratados. Deberá tambien marcarse la desviacion de la línea divisoria en ambos lados del canal del rio al rededor de dichos bancos por si quedaren fuera del tratado, á fin de que se pueda llegar á una solucion acertada y definitiva respecto de la eliminacion que se ha propuesto á ambos gobiernos [puedan llegar á una solucion acertada y definitiva respecto de la eliminacion que se ha propuesto á las dos naciones.]

Se recomienda á los ingenieros rindan informe á los comisionados en determinados periodos, por ejemplo, mensualmente, acerca del adelanto en sus trabajos haciendo mencion de cualquiera dificultad con que tropiecen al ceñirse estrictamente á las instrucciones preinsertas.

Los comisionados esperan que todo el levantamiento, inclusive los informes de los ingenieros y diseños de toda esa seccion del rio, lleguen á manos de los comisionados y por duplicado el 30 de Mayo próximo ó antes si fuere posible.

[Inclosure 2.]

LAREDO, TEXAS, *Diciembre 3 de 1897.*

La comision Mixta se reunió en el Hotel Hamilton á las 4-30 de la tarde, con el objeto de tratar del caso No. 13, conocido con el nombre de "Supuestas obstrucciones en [el] Rio Grande, en la extremidad Sur del puente del ferrocarril de la Calle de El Paso, frente á Ciudad Juarez, Chihuahua", y tambien del asunto relativo al enderezamiento de la gran curva del rio abajo de dicho puente, para dar salida á las aguas que inundan las dos poblaciones de El Paso, Texas, y Ciudad Juarez, Chihuahua.

En seguida los Ingenieros consultores presentaron su informe unido de fecha 18 de Octubre último, acompañado de un mapa; y después de un examen detenido, y de madura discusion entre ambos comisionados, éstos aprobaron de comun acuerdo las conclusiones y recomendaciones de los ingenieros presentadas en su informe, y

recomiendan á su vez á sus respectivos gobiernos, que las autoridades locales de ambas ciudades ordenen á los propietarios de dicho puente, remuevan la obstruccion descrita en el informe de los ingenieros, por cuenta de los propietarios del propio puente, y conforme lo recomiendan los mismos ingenieros.

En lo que toca al propuesto enderazamiento del canal del rio, los comisionados concuerdan con la opinion de los ingenieros, respecto á que es factible y conveniente hacer tal rectificacion de la manera descrita en su informe y mapa relativos, con tal que dicha rectificacion se haga con el consentimiento mútuo de ambas ciudades y sin que tengan que erogar gasto alguno el Gobierno de Mexico ó el de los Estados Unidos, ya sea en la ejecucion de la obra ó por indemnizaciones con motivo de los perjuicios que pudiera causar el nuevo canal ó por la inundacion de terrenos situados abajo del rio, pues todos estos gastos se haran exclusivamente á costa de ambas ciudades de El Paso, Texas, y Ciudad Juarez, Chihuahua, y en la forma que mutuamente convengan.

Los comisionados hacen constar de una manera expresa y terminante, que cualquier procedimiento ó consulta en el presente caso, no tienen relacion ó concomitancia alguna con las cuestiones que entraña el caso No. 4, conocido por "El Chamizal," en el que no pudieron los propios Comisionados ponerse de acuerdo y el cual se halla aún pendiente de resolucion por ambos Gobiernos.

The following paragraph appears before the last paragraph on this page, in the copy accompanying General Mills' letter of December 4, 1897:

"La Comision Mixta recomienda además, que en caso de hacerse este cambio, la línea divisoria entre ambas Repúblicas quede fijada desde entonces en la corriente del canal, que pase por el nuevo lecho del rio."

[Translation.]

MEXICAN LEGATION

WASHINGTON, *June 7, 1898.*

MR. SECRETARY:

By the notes sent by me to your Department on December 25, 1897 and the following 6th day of January I acquainted you with the terms in which the Government of Mexico approved the Acts (Joint Journals) of the International Water Boundary Commission of November 27 and December 3, 1897, and with the reasons for which it could not give its approval to certain stipulations therein contained.

I now have the honor to inform you that I have received from Señor Mariscal, Secretary of Foreign Relations of the United Mexican States instructions, dated May 24 last, directing me to apprise you of the Government of Mexico's concurrence in giving effect to the other agreements contained in the said Acts, (Joint Journals) to which no objection has been made by it, and for greater clearness, he sends me a copy of the said Acts, (Joint Journals) suitably corrected into the form that is approved by the Mexican Government, so as to put them into immediate operation, if the Government of the United States sees no objection thereto. I enclose English and Spanish copies of the two Acts (Joint Journals) herein referred to and shall be thankful to you if you will kindly tell me whether the Government of the United States accepts the corrections made by the Government of Mexico.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

Enclosures: Acts as above.

M. ROMERO.

Hon. WILLIAM R. DAY

&c. &c. &c.

[Inclosure 1.]

[Translation.]

LAREDO, TEXAS, *November 27th, 1897.*

The Joint Commission met at the Hotel Hamilton at 2 P. M., for the consideration of the proposed continuous survey of the Rio Grande (Rio Bravo) from Rio Grande City, Texas, and Camargo, Tamaulipas, to its mouth at the Gulf of Mexico, to enable the two governments to finally consider the change in the treaty of 1884, suggested in the report of the Joint Commission dated January 15th, 1895, eliminating the isolated bancos from the operation of said treaty.

Each Commissioner then informed the other that he was authorized by his respective government to proceed with the continuous survey of the river, as before mentioned, provided that the river proper only was surveyed with the usual detail and exactness necessary to establish the boundary, and that the bancos on either side be only surveyed and delineated by sketches sufficiently accurate to give to the authorities of each government, the evidence of their extent, location and the direction and course of the international boundary around them, provided these isolated

bancos should not be eliminated from the operation of the treaty as suggested by the Joint Commission, and that this portion of the river be divided into two sections, each commission taking one of the sections for its especial work; the consulting engineers to visit each other and their work as it progresses, and compare and sufficiently test, the mode and manner of the other work as to satisfy them that it is being done in a correct and uniform manner, so that when the work of each is finished the other will be able to sign the maps and reports of the whole.

The Commissioners then called in their respective engineers for a general consultation regarding the division, mode and method of the work.

After a thorough discussion of the entire subject, participated in by both Commissioners and their engineers, it was decided most advantageous to conduct the work in boats to be constructed here and floated down the river, each party conducting its work from the upper end of the division assigned to it, floating the crafts along the river as the work progressed.

The point of division was then agreed upon at Rancho de los Fresnos, Tamaulipas, below and near Santa María, Texas, and the upper portion assigned to the United States, and the lower assigned to Mexico.

One in five thousand was then agreed upon as the scale upon which the maps of the entire survey [of the river proper] were to be drawn and that the survey of the river proper throughout was to be made with that degree of exactness; marking definitely the connection or location of each of the isolated or semi-isolated bancos on either side, to enable the placing of the necessary monuments to mark their location and nationality in case these isolated bancos should be eliminated, and giving all the engineering information sufficient to enable the Commission to transfer them from the jurisdiction of one country to the other, as recommended in the suggestions of the Joint Commission, dated January 15th, 1895, before referred to.

As the engineers may find some difficulty in always determining definitely whether a banco was formed before or after the survey of Emory and Salazar or whether a bayou (estero) represents a banco in its true sense, they are requested to include in their survey of these bancos, all that have probability of being bancos formed since the survey of Emory and Salazar and have less frontage on the river's current than depth at right angles from it.

These bancos are to be surveyed with a sufficient degree of exactness to approximate their form, location, contents in area, that portion cultivated if any, inhabitants if any, buildings if any, reputed owner, with nationality of owner, so that the diplomatic authorities of each country will be able at a glance to understand the approximate value, area, location and number of bancos that would be transferred from the jurisdiction of one country to that of the other, provided the bancos are eliminated from the operation of the treaty and also the deviation of the boundary on either side of the channel of the river around these bancos in case they are not eliminated from the treaty; thus enabling them [the two governments] to come to an intelligent and final understanding regarding the question of the elimination now before the two countries.

The engineers are requested to inform their Commissioners at stated periods—say monthly—of the progress they are making in the work, reporting any difficulties that they may encounter in carrying out strictly the instructions herein above contained.

It is expected by the Commissioners that this work will be entirely completed and the reports of the engineers, with sketch maps of the entire section of the river, placed in the hands of the Commissioners in duplicate by the 30th day of May next, and at as much earlier a date as practicable.

[Inclosure 2.]

[Translation.]

LAREDO, TEXAS, *December 3rd, 1897.*

The Joint Commission met at the Hotel Hamilton at 4:30 P. M. for the purpose of considering the case No. 13, known as "Alleged Obstruction in the Rio Grande at the South end of the El Paso Street Railway bridge in front of the City of Juarez, Chihuahua," and also the question of "Straightening the great bend in the river below this bridge for the relief of the waters thrown back on the two cities of El Paso, Texas, and Ciudad Juarez, Chihuahua."

The consulting Engineers then presented their joint report with map dated October 18th, and after a thorough examination and discussion by the two Commissioners, they jointly approved the conclusions and recommendations of the engineers in their joint report, and recommend to their respective governments that the local authorities of the two cities direct the owners of said bridge, to remove the obstruction described in the report of the engineers, under said bridge, at the expense of the owners of said bridge, as recommended by the engineers.

Regarding the proposed straightening of the river's channel, the Commissioners jointly concur in the opinion of the engineers that it is feasible and desirable to have this change made in the manner designated in the report and map of the engineers, provided said change is made by mutual agreement between the two cities without any expense in the work or entailment of damage through the opening of the new channel, or by the overflowing of any lands below, on either the Government of the United States or the Government of Mexico, but to be wholly at the expense of the two cities of El Paso, Texas, and Ciudad Juarez, Chihuahua, in the manner as to expense as may be mutually agreed upon by them.

The Commissioners wish it distinctly understood that any action or recommendation in this case is intended to have no bearing or effect upon any question involved in Case No. 4, known as "El Chamizal" upon which the Commissioners were unable to agree, and which case is still before the two Governments undecided.

Señor Romero to Mr. Day.

LEGACION MEXICANA,
WASHINGTON, *Junio 14 de 1898.*

Señor SECRETARIO:

Tengo la honra de informar á usted que hoy recibí por el cable, instrucciones del Señor Mariscal, Secretario de Relaciones Exteriores del Gobierno de los Estados Unidos Mexicanos, para manifestar al Gobierno de los Estados Unidos de América que el Gobierno Mexicano desaprueba el tazo que consulta la Comision Internacional de Límites fluviales en su acta de 21 de Mayo próximo pasado, á reserva de acordar una resolucion definitiva despues de estudiar definitivamente el asunto.

Como el Artículo VIII de la Convencion de 1º de Marzo de 1889 estipula que si ambos Comisionados estuvieren de acuerdo en una resolucion, su fallo se considerará obligatorio para ambos Gobiernos, á no ser que alguno de ellos lo desaprobare dentro de un mes, el Gobierno de México cree conveniente hacer la manifestacion contenida en esta nota, á reserva de modificar su resolucion si, del estudio que haga del asunto, encontrare que es de aprobarse el trazo consultado por la Comision Internacional de Límites fluviales.

Sirvase usted aceptar, Señor Secretario, las seguridades de mi mas distinguida consideracion.

M. ROMERO.

Hon. WILLIAM R. DAY,

etc. etc. etc.

[Translation.]

MEXICAN LEGATION,
WASHINGTON, *June 14, 1898.*

Mr. SECRETARY:

I have the honor to inform you that I have received instructions today by cable from Mr. Mariscal, Secretary of Foreign Relations of the Government of the United Mexican States, to make known to the Government of the United States of America that the Mexican Government disapproves of the sketch plan submitted by the International Water Boundary Commission in the report of its proceedings of the 21st ultimo, reserving to itself the right of expressing a definitive determination after having definitely studied the subject.

As Article VIII of the Convention of March 1, 1889, stipulates that if both Commissioners shall agree to a decision, their decision shall be considered as binding upon both Governments, unless either of them shall disapprove it within one month, the Government of Mexico thinks proper to make the announcement contained in this note, reserving to itself the right to modify its determination if, from its study of the subject it shall find that the sketch-plan submitted by the International Water Boundary Commission ought to be approved.

Accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Hon. WILLIAM R. DAY,
etc., etc.

Mr. Day to Señor Romero.

No. 345.

DEPARTMENT OF STATE,
WASHINGTON, *June 18, 1898.*

Señor Don MATIAS ROMERO,
&c., &c., &c.

SIR: I have the honor to acknowledge the receipt of your note of the 14th instant, informing me that your Government has disapproved of the sketch plan submitted by the International (Water) Boundary Commission in the report of its proceedings of the 21st ultimo, reserving to itself the right to express a definitive decision after having definitely studied the subject.

Accept, &c., &c.,

WILLIAM R. DAY.

Mr. Moore to Señor Romero.

DEPARTMENT OF STATE,
WASHINGTON, *June 28, 1898.*

Señor Don MATIAS ROMERO,
&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 7th instant, enclosing copies in English and Spanish of the journal of the United States and Mexican International (Water) Boundary Commission for November 27 and December 3, 1897, as approved by your government, and regarding the concurrence of this government in the changes made by the Government of Mexico in the original readings of the journal for those dates.

In reply, I beg to inform you, that the Government of the United States accepts the amended copies of the journal accompanying your note.

Accept, &c., &c.

J. B. MOORE,
Acting Secretary.

Señor Romero to Mr. Day.

LEGACION MEXICANA,
WASHINGTON, *Junio 29 de 1898.*

Señor SECRETARIO:

Tengo la honra de remitir á usted copia de una nota, número 1152, del Señor Mariscal, Secretario de Relaciones Exteriores de los Estados Unidos Mexicanos, fechada el 18 del corriente, en que inserta una comunicacion que en la misma fecha dirigió al Comisionado Mexicano en la Comision Internacional de Límites Fluviales, respecto de las actas de la Comision mixta de 21, 23 y 25 de Mayo próximo pasado.

Sirvase usted aceptar, Señor Secretario, las seguridades de mi mas distinguida consideracion.

M. ROMERO.

Hon. WILLIAM R. DAY,
etc. etc. etc.

Anexo: La copia mencionada.

[Inclosure.]

Copia.

Secretaria de Estado y del Despacho de Relaciones Exteriores. México.

Seccion de América, Asia y Oceania.

Número 1152. Resoluciones de la Comision de Limites Fluviales.

MÉXICO, 18 de Junio de 1898.

Hoy digo al Comisionado mexicano, en la Internacional de Limites fluviales, lo que sigue:

“Con el oficio de usted, número 83, de 6 del que cursa, se recibieron en esta Secretaria las actas de la Comision mixta de 21, 23 y 25 de Mayo último, é impuesto de su contenido le manifiesto que, no apareciendo en ellas proposicion alguna presentada por ambos comisionados, de comun acuerdo, no procede la aprobacion ó reprobacion de ellas, por esta Secretaria, en los términos marcados por el tratado. Solamente le advierto que, estando decidida como está ya, la apertura del canal y resuelto el nombramiento del agente que ha de ponerse de acuerdo con el Alcalde municipal de El Paso, para que se ponga en práctica dicha obra, no tienen razon de ser las objeciones del Comisionado americano para que fuese revocado el acuerdo de la Comision mixta contenido en su acta de 3 de Mayo; y hago notar á usted, ademas, que la suposicion del Señor Mills de que la misma Comision puede revocar sus acuerdos, una vez sometidos á la aprobacion de los Gobiernos respectivos, como acontece respecto de los consignados en el acta del 25 de Mayo, no se halla fundada en la Convencion que dió existencia á la expresada Comision de limites fluviales y enumera las únicas atribuciones que esta tiene.”

Lo que transcribo á usted para que se sirva ponerlo en conocimiento del Secretario de Estado de los Estados Unidos.

Renuevo á usted las seguridades de mi atenta consideracion.

MARISCAL.

Señor MINISTRO DE MÉXICO.

Washington.

[Translation.]

MEXICAN LEGATION,

WASHINGTON, *June 29, 1898.*

MR. SECRETARY:

I have the honor to transmit to you copy of a note, No. 1152, from Señor Mariscal, Minister of Foreign Relations of the United Mexican States, dated the 18th of this month, in which he encloses a communication which, under the same date, he addressed to the Mexican Commissioner on the International Boundary Commission, relative to the protocols of the Joint Commission of the 21st, 23d and 25th of May last.

Be pleased to accept, Mr. Secretary, the assurances of my most distinguished consideration.

M. ROMERO.

Enclosure: The copy referred to above.

Hon. W. R. DAY,

etc., etc., etc.

[Inclosure.]

[Translation.]

DEPARTMENT OF STATE
AND OF FOREIGN RELATIONS MEXICO,
SECTION OF AMERICA, ASIA AND OCEANICA.

No. 1152.

RESOLUTIONS OF THE WATER BOUNDARY COMMISSION.

MEXICO *June 18, 1898.*

Today I direct to the Mexican Commissioner on the International Boundary Commission the following:

"With your official communication No. 83 of the 6th instant there were received by this Department the protocols of the Joint Commission of the 21st, 23d and 25th of May last, and noting its contents I have to say to you that inasmuch as there does not appear among these propositions any one which is presented by both Commissioners with common accord, this Department cannot give or withhold approval of them according to the terms set out in the treaty. I have only to call your attention to the fact that the opening of the canal having already been decided upon and the agent who is to have charge together with the mayor of El Paso, having been appointed, in order to place said work in operation, there is no ground for the objection raised by the American Commissioner for the revocation of the agreement of the Joint Commission contained in its Protocol of the 3d of May. I have to inform you moreover, that the supposition of Mr. Mills that the Commission itself has power to revoke its agreements after the same have been submitted for the approbation of the respective governments, as is the case with the agreements in the Protocol of the 25th of May, finds no warrant in the convention which called into existence the said Water Boundary Commission and which alone enumerates the powers which it possesses."

All of which is sent to you in order that you may make known the same to the Secretary of State of the United States.

I renew to you the assurances of my courteous consideration.

MARISCAL.

The MINISTER OF MEXICO,
Washington.

Señor Romero to Mr. Day.

Número 5.

LEGACION MEXICANA.

ATLANTIC CITY, N. J., *Julio 23 de 1898.*

Señor SECRETARIO:

Tengo la honra de trasmitir á usted, como respuesta á su nota número 337, del 20 de Mayo último, relativa á la reclamacion presentada ante el Gobierno de los Estados Unidos por J. Nepomuceno Ornelas y otros, dueños del ganado capturado y vendido en subasta pública por empleados fiscales de El Paso, Texas, en 1891, que ha motivado la larga correspondencia que se ha cruzado entre ese Departamento y esta Legacion sobre el particular, la nota número 28 que con fecha 9 de este mes me dirige sobre este asunto el Ministro de Relaciones Exteriores de mi pais.

Nuevamente reitero á usted, Señor Secretario, las seguridades de mi mas alta consideracion.

M. ROMERO.

Hon. WILLIAM R. DAY,
etc., etc., etc.

[Inclosure.]

SECRETARIA DE ESTADO Y DEL DESPACHO DE RELACIONES EXTERIORES. MÉXICO.

SECCION DE AMÉRICA ASIA Y OCEANIA.

Número 28. Reclamacion de Ornelas y otros.

MÉJICO, *Julio 9 de 1898.*

Me he impuesto con especial atencion del contenido de la nota que el Señor Secretario del Tesoro dirigió al de Estado de ese pais, con fecha 17 de Mayo último, sobre la reclamacion presentada por J. Nepomuceno Ornelas y otros dueños del ganado capturado y vendido en subasta pública por empleados fiscales de El Paso, Texas, en 1891, de la cual remitió á usted copia el Honorable Mr. Day con nota del 20 del mismo mes, trasmitida con el despacho de usted número 1185 de la propia fecha.

En dicha nota el Secretario Gage, despues de apuntar las razones que han servido de fundamento á cada uno de los dos Gobiernos para sostener sus opiniones opuestas, manifiesta que, tomando en consideracion los argumentos de una y otra parte, no puede recomendar se admita esta reclamacion sino de la manera resuelta

con anterioridad; esto es, renovando el ofrecimiento de reembolsar á los dueños del ganado la cantidad de \$391.

En los documentos anexos á la nota que con fecha 18 de Septiembre de 1895 dirigió usted al Honorable Mr. Olney, se expresan las razones por las cuales el Gobierno de Méjico no aceptó ni puede aceptar el arreglo propuesto por el Departamento de Estado; se prueba satisfactoriamente hasta con la propia declaracion de un agente especial del Departamento del Tesoro, enviado al lugar de los hechos para su averiguacion, que los reclamantes no tuvieron la intencion de cometer contrabando en los Estados Unidos; y se demuestra que no es en manera alguna exagerado el monto de la demanda. En esa misma nota se insistió en afirmar que el despojo del ganado se ejecutó en territorio mejicano. El Señor Secretario Olney contestó con fecha 15 de Abril de 1896 que, hecho un nuevo examen del expediente formado en aquel Departamento, aparecia la existencia de un conflicto radical entre las pruebas recogidas por cada Gobierno respecto al lugar del comiso del ganado en cuestion, efectuado segun lo sostenian uno y otro, dentro de su propio territorio; é hizo la proposicion, que fué aceptada por el Gobierno Mejicano, de que la Comision Internacional de limites fluviales examinara é informase acerca de la localidad precisa en donde se efectuó el comiso del ganado y la propiedad territorial de ese punto una vez determinado éste; pero sin la facultad de decidir la cuestion de indemnizacion, ya sea en principio ó en cuanto á su monto.

La Comision Mixta decidió en su sesion del 8 de Mayo de 1897 que materialmente le fué imposible establecer la propiedad territorial del punto de la aprehension y aun el lugar exacto de esta, con absoluta certidumbre, porque corriendo el Rio Bravo dentro de un cauce cuya anchura es de cuatrocientas á mil yardas, y cuyo fondo, formado de arena fina y suelta, se halla constantemente removido por la fuerza de las corrientes, no podria determinar en donde está la linea divisoria sino con una aproximacion de centenares de yardas, y por lo mismo, que es enteramente imposible determinar de un modo científico y sin la aproximacion de varios centenares de yardas en dónde estaba la linea divisoria en la época de la confiscacion del ganado y del arresto de los pastores; pero que, sin embargo, las declaraciones unánimes recibidas establecen el hecho de que habia dos charcas de agua cerca de la ribera mejicana y un lodazal junto á la ribera americana opuesta; que de esto se desprende que cuando el rio cesó de correr, la linea divisoria pudo haber quedado en uno de esos dos puntos,

supuesto que el canal que contuvo la última corriente habria indudablemente sido declarado como el límite, y fué imposible determinar por cual de los dos canales pasó el último hilo de agua; que las probabilidades eran de que una parte del ganado estaba del lado de los Estados Unidos y la otra en el lado mejicano de la linea divisoria; y que la preponderancia del testimonio y las presunciones apoyaban que la mayor parte del ganado fue recogida mas cerca de la ribera mejicana del ancho cauce seco del rio, que de la de los Estados Unidos. Este dictamen no fué extractado con fidelidad en la nota de Mr. Gage á que me refiero.

Como consecuencia de dicho dictamen, quedó sin averiguarse el punto preciso en que se hizo la captura del ganado, y quedaron destruidas tambien las alegaciones sobre jurisdiccion territorial, presentadas antes por el Gobierno de los Estados Unidos. El Gobierno Mejicano no presentó más queja por una dudosa violacion del territorio nacional; pero hizo una indicacion sobre la preponderancia y presunciones expresadas en el repetido dictamen, que parecen suficientes para resolver el caso en favor de los reclamantes.

Ese Gobierno, sin tomar en consideracion los argumentos presentados por el de Méjico para demostrar que Ornelas y sus compañeros no tuvieron la intencion de introducir de contrabando sus animales en los Estados Unidos, como lo reconoció el Agente especial del Departamento del Tesoro Mr. McCoy al emitir la opinion de que debia reembolsarse á los propietarios del ganado de su valor en Méjico al tiempo de la captura, insiste de nuevo en afirmar la existencia de tal intencion, no aduciendo á este respecto mas pruebas.

No habiéndose refutado las razones expuestas en las diversas notas de esa Legacion sobre el particular, y especialmente las contenidas en las notas de esta Secretaria números 150 del 9 de Septiembre de 1895 y 45 del 8 de Julio de 1897, se servirá usted llamar nuevamente la atencion del Departamento de Estado hacia este caso, suplicando al Honorable Mr. Day tome en consideracion cuanto ha expuesto sobre el particular el Gobierno Mejicano, á fin de conseguir la justa y debida reparacion de los daños y perjuicios ocasionados á unos mejicanos á quienes se privó ilegalmente de su libertad y de sus bienes, sosteniendo:

1º—Que el ganado de Ornelas y sus compañeros fué aprehendido en su mayor parte, cuando menos, en el lecho del Rio Bravo mas cerca de la orilla mejicana, y por lo tanto en territorio incuestionablemente mejicano;

2°—Que en el mismo lugar fueron aprehendidos los dos pastores que cuidaban dicho ganado;

3°—Que el ganado y los pastores fueron conducidos á El Paso, donde se remató el primero en subasta pública y se mantuvo presos á los segundos;

4°—Que no hubo intencion de cometer contrabando; y

5°—Que con motivo de la venta ilegal del ganado de que se trata y de la prision injustificada de los pastores, debe acordarse la indemnizacion pedida.

Si desgraciadamente no estuviere conforme ese Gobierno con esta demanda, propondrá usted el medio del arbitraje, para que un juez imparcial pronuncie su fallo en justicia, en vista de que ambos Gobiernos han agotado la discusion en este caso, sin llegar á un acuerdo.

Renuevo á usted las protestas de mi atenta consideracion.

(firmado) M. AZPIROZ.

Señor MINISTRO DE MÉJICO.

Washington.

[Translation.]

No. 5.

LEGATION OF MEXICO.

ATLANTIC CITY, N. J., *July 23rd, 1898.*

Mr. SECRETARY:

I have the honor to transmit to you note No. 28, which was addressed to me under date of the 9th instant by the Minister of Foreign Relations of my country. I do so in reply to your note No. 337 of the 20th of May last, relative to the claim presented to the United States Government by J. Nepomuceno Ornelas and others, owners of the cattle that were seized and sold at public auction by Custom House officers at El Paso, Texas, in 1891, which has given rise to the lengthy correspondence that has passed between the Department of State and this Legation on the subject.

I once more reiterate to you, Mr. Secretary, the assurances of my highest consideration.

M. ROMERO.

Honorable WILLIAM R. DAY,
etc. etc.

[Inclosure.]

[Translation.]

DEPARTMENT OF STATE AND OF FOREIGN RELATIONS. MEXICO.
SECTION OF AMERICA, ASIA AND OCEANICA.No. 28. Claim of Ornelas *et al.*CITY OF MEXICO, *July 9th, 1898.*

I have read, with special attention, the note which the Honorable Secretary of the Treasury addressed to the Honorable Secretary of State of the United States, under date of the 17th of May last, relative to the claim presented by J. Nepomuceno Ornelas and other owners of the cattle that were seized and sold at public auction by Custom House officers at El Paso, Texas, in 1891, a copy of which was sent to you by the Honorable Mr. Day as an inclosure to his note of the 20th of the same month, which was transmitted with your despatch No. 1185 of the same date.

In said note Secretary Gage, after stating the reasons which have served as a basis to each of the Administrations for maintaining its contrary opinions, remarks that, taking into consideration the arguments of both parties, he cannot recommend the acceptance of this claim otherwise than in the manner already decided upon: That is to say, renewing the offer to pay the sum of \$391 to the owners of the cattle.

In the inclosures to the note addressed by you, under date of September 18th, 1895, to the Honorable Mr. Olney, the reasons are stated for which the Government of Mexico did not accept and cannot accept the settlement proposed by the Department of State; it is satisfactorily proved, even by the statement of a special agent of the Treasury Department who was sent to the place where the occurrences took place for their investigation, that the claimants had no intention to smuggle their cattle into the United States, and it is shown that the amount of the claim is in no wise exaggerated. In that same note it is persistently asserted that the seizure of the cattle took place in Mexican territory. Secretary Olney replied under date of April 15th, 1896, that, the case having been reexamined at the Department of State, a radical discrepancy appeared to exist between the evidence collected by each Government with respect to the place of the seizure of the cattle in question, each one claiming it to have taken place in its own territory; he proposed, and his proposition was accepted by the Mexican Government, that the International Water

Boundary Commission should examine and report concerning the precise locality where the seizure of the cattle took place, and, this fact having been determined, concerning the territorial ownership of that point, without power, however, to decide the question of indemnity, either in principle or as to its amount.

The Mixed Commission decided, during its session of May 8th, 1897, that it was materially impossible for it to decide concerning the territorial ownership of the point where the seizure took place, or even the exact place of the seizure, with absolute certainty, because, as the Rio Bravo (Rio Grande) flows within a bed from 400 to 1,000 yards wide, the bottom of which, being formed of fine, loose sand, is constantly shifted by the force of the currents, it could not determine where the boundary line is, within several hundred yards, and consequently that it was wholly impossible to determine, scientifically, within several hundred yards, where the boundary line was at the time of the seizure of the cattle and the arrest of the herders; but that, nevertheless, the unanimous declarations received established the fact that there were two ponds of water near the Mexican bank, and a quagmire near to the opposite American bank; that the inference from this is that when the river ceased to flow; the boundary line may have remained at one of those two points, since the channel through which the last current flowed would undoubtedly have been declared to be the boundary, and it was impossible to determine through which of the two channels the last current of water passed; that the probabilities were that a part of the cattle were on the American side and the rest on the Mexican side of the boundary line, and that the weight of testimony and of presumption went to show that the larger portion of the cattle were seized nearer to the Mexican side of the broad, dry bed of the river than to that of the United States. This report was not accurately quoted in the note of Mr. Gage to which I refer.

As a consequence of said report, the exact point at which the seizure of the cattle took place remained undetermined, and the allegations concerning territorial jurisdiction which had previously been presented by the United States Government were overthrown. The Mexican Government presented no further complaint on account of a doubtful violation of its territory; it did however, call attention to the weight of testimony and the presumptions stated in the aforesaid report, which appear sufficient to settle the case in favor of the claimants.

The United States Government, without taking into consideration the arguments presented by that of Mexico to show that Ornela and his companions had no intention to smuggle their animals into the United States, as was admitted by Mr. McCoy, the Special Agent of the Treasury Department, when he expressed the opinion that the owners of the cattle should be paid the amount that they were worth in Mexico at the time of their seizure, again persists in maintaining that such was their intention, although it adduces no evidence in support of this.

As the reasons stated in the various notes of your Legation on the subject have not been refuted, especially those contained in the note of this Department No. 150 of December 9th, 1895, and No. 45 of July 8th, 1897, you will be pleased again to call the attention of the Department of State to this case, and to beg the Honorable Mr. Day to consider all that has been stated on the subject by the Mexican Government with a view to obtaining just and due redress for the damage and loss occasioned to certain Mexican citizens who were illegally deprived of their liberty and their property. You will, moreover, maintain:

1. That the cattle of Ornelas and his companions were seized, for the most part, at least, in the bed of the Rio Bravo, nearer to the Mexican bank, and, consequently, in territory that was unquestionably Mexican;

2. That the two herders who had charge of said cattle were apprehended in the same place;

3. That the cattle and herders were taken to El Paso, where the former were sold at public auction, and the latter were kept under arrest;

4. That there was no intention to smuggle, and

5. That, owing to the illegal sale of the cattle in question and to the unwarranted arrest of the herders, the indemnity asked for should be granted.

If, unfortunately, the United States Government shall not agree to this demand, you will propose arbitration, in order that the case may be decided by an impartial judge, in view of the fact that both Governments have exhausted discussion without reaching an agreement.

I renew to you the assurances of my respectful consideration.

M. AZPIROZ.

To the MINISTER OF MEXICO AT WASHINGTON.

Mr. Hay to Mr. Clayton.

No. 613.

DEPARTMENT OF STATE,
WASHINGTON, *October 11, 1898.*

POWELL CLAYTON, Esquire,
etc. etc., City of Mexico.

SIR:

Referring to instruction No. 157, of October 26, 1897, I enclose herewith a copy of a letter from Brigadier-General Anson Mills, of the International (Water) Boundary Commission, requesting the Department to use its good offices to obtain an early decision by Mexico as to whether she will agree with the United States that the "bancos" in the Rio Grande are to be eliminated from the operations of the treaties of 1884 and 1889, as recommended in the Commission's report of January 15, 1895, and also in its report of June 14 last.

You will use your best efforts with the Mexican Foreign Office to effect a determination of this pending question in accordance with the heretofore expressed views of the Department.

I am, Sir, Your obedient servant,

JOHN HAY.

Enclosure: From Brigadier-General Anson Mills, October 6, 1898.

[Inclosure.]

General Mills to Mr. Adee.

DEPARTMENT OF STATE.

INTERNATIONAL (WATER) BOUNDARY COMMISSION,

UNITED STATES AND MEXICO.

Treaties of 1884 and 1889.

NO. 2 DUPONT CIRCLE,
WASHINGTON, D. C., *October 6, 1898.*

To Honorable ALVEY A. ADEE,
2nd Assistant Secretary of State,
Washington, D. C.

SIR:

I beg to acknowledge the receipt of your letter of yesterday, enclosing an extract regarding the work of our Commission from President Diaz' message. In this connection I beg to state that while it is true that we completed the field work of the survey of

the lower river, and a diagram on a large scale showing the locations of the different "bancos" which it was proposed by the joint report of the Commission dated January 15th, 1895, to eliminate from the operations of the Treaties of 1884 and 1889, my engineers have been engaged in office work for the past three months in making and finishing maps of the work which they do not expect to complete until the 1st of January, when the Mexican Engineers were given to understand by the Joint Commissioners that they were expected also to complete their maps. These maps, however, can not be definitely finished until Mexico determines whether she will agree with the United States that these "bancos" are to be eliminated as recommended in the report above mentioned, and also in our more recent report of June 14th last.

I understand our government has formally consented to this elimination but that Mexico has been deferring the matter until she could secure more precise data, which this sketch above referred to was presumed to furnish. I beg therefore that you will use your good offices to try and procure from Mexico an early decision in this matter so that I can instruct my engineers to complete the maps they are now working upon, for until Mexico decides on this question of elimination it will not be known whether the boundary will continue around each "banco" in the bed of the old channel or follow the present current of the river.

This matter has now been under consideration for about four years and as it is the most important one that was brought before us it ought in my opinion, to be settled as quickly as practicable. Mexico, as I understand it, only hesitated because the data furnished by us was not sufficient to show the amount of land in question but the sketch taken in conjunction with the engineer's report will show exactly just how much is lost and gained by each nation, by the elimination of the "bancos", which would appear to embrace all the information that Mexico desired before determining the question.

I have the honor to remain,

Very respectfully yours,

ANSON MILLS

*Brigadier General, U. S. Army, (Retired),
Commissioner.*

Mr. Clayton to Mr. Hay.

No. 644.

LEGATION OF THE UNITED STATES

MEXICO, *October 18, 1898.*

Honorable JOHN HAY,

Secretary of State,

Washington, D. C.

SIR:

In compliance with your instruction No. 613, of the 11th instant, I have the honor to report that I called upon Minister Mariscal yesterday and brought to his attention the question of the proposed elimination of the "bancos" on the Rio Grande River from the operations of the treaties of 1884 and 1889, as recommended in the Commission's report of January 15, 1895, and also in its report of June 14th last. I expressed the desire of my Government for an early decision by the Mexican Government, stating that it was my understanding that the Commission had completed the field work of the survey of the lower river and a diagram showing the location of the different "bancos" which the Commission proposed to eliminate, and that it was this information, as I understood it, that the Mexican Government desired in order to determine how the question would affect its interests. I informed Mr. Mariscal that the maps which our Engineers are now working upon can not be completed until this question is decided, so that it can be known whether the boundary will go around each "banco" in the bed of the old channel, or follow the present bed of the river.

Mr. Mariscal informed me that Mr. Jacobo Blanco had lately been appointed as Commissioner for Mexico, and that he would instruct him to report as soon as practicable the data which he desired to enable him to determine whether or not it will be to the interest of Mexico, all things considered, to accede to the proposition to eliminate said "bancos", and that as soon as he received the information he would advise me definitely as to the decision of Mexican Government relating thereto.

I have the honor to be, Sir,

Your obedient servant,

POWELL CLAYTON.

Mr. Hay to Mr. Clayton.

No. 636.

DEPARTMENT OF STATE,
WASHINGTON, *October 31, 1898.*

POWELL CLAYTON, *Esquire,*
etc., etc., City of Mexico.

SIR:

I have to acknowledge the receipt of your despatch No. 644, of the 18th instant, reporting your interview with the Mexican Minister for Foreign Affairs concerning Mexico's awaited decision upon the question of eliminating the "bancos" in the Rio Grande from the operation of the treaties of 1884 and 1889.

I am, Sir, Your obedient servant,

JOHN HAY.

Mr. Clayton to Mr. Hay.

No. 664.

LEGATION OF THE UNITED STATES,
MEXICO, *November 9, 1898.*

Honorable JOHN HAY,
Secretary of State,
Washington, D. C.

SIR:

Referring to my Nos. 644 and 654, of the 18th and 27th ultimo, respectively, concerning the elimination of the "bancos" on the Rio Grande River, I am today in receipt of a note from Minister Mariscal, dated the 4th instant, copy and translation enclosed, in which he informs me that he has asked a report from the Chief of the Mexican Section of the International Boundary Commission, and that as this report will demonstrate the necessity of obtaining more precise data for the proper resolution of the matter, he thinks it prudent to await the completion of the definitive plans of the said river and the circumstantiated report of the Consulting Engineers.

I have the honor to be, Sir,
Your Obedient servant,

POWELL CLAYTON.

Enclosures:

1. Mr. Mariscal to Mr. Clayton, November 4, 1898.
2. Translation of No. 1.

[Inclosure 1.]

Señor Mariscal to Mr. Clayton.

[Copy.]

SECRETARÍA DE RELACIONES EXTERIORES,
MEXICO, 4 de Nov. de 1898.

Señor MINISTRO:

Refiriéndome á la nota de Vuestra Excelencia, de 17 de Octubre último, tengo la honra de manifestarle que pedí informe al Jefe de la Sección mexicana de la Comisión Internacional de Limites, sobre el asunto relativo á la eliminación de "bancos" del Rio Bravo en las operaciones que tienen que practicarse conforme á los tratados de 1884 y 1889.

Como en ese informe sé demuestra la necesidad de obtener datos más precisos para la conveniente resolución del asunto, creo prudente esperar la conclusión de los planos definitivos del mencionado rio y el informe circunstanciado que con dichos planos deben presentar los Ingenieros Consultores de la comisión mencionada.

Renuevo á Vuestra Excelencia las seguridades de mi alta consideración.

IGNO. MARISCAL.

A Su Excelencia

POWELL CLAYTON,

etc., etc., etc.

[Inclosure 2.]

[Translation.]

DEPARTMENT OF FOREIGN RELATIONS,
MEXICO, November 4, 1898.

Mr. MINISTER:

Referring to Your Excellency's note of the 17th of last October, I have the honor to inform you that I have asked a report from the Chief of the Mexican Section of the International Boundary Commission about the matter relating to the elimination of the "bancos" of the Rio Bravo in the operations to be acted upon in conformity with the treaties of 1884 and 1889.

As this report will demonstrate the necessity of obtaining more precise data for the proper resolution of the matter, I think it prudent to await the completion of the final plans of the said river and the circumstantiated report which the Consulting Engineers of the said Commission should present with said plans.

I reiterate to Your Excellency the assurances of my high consideration.

IGNO. MARISCAL.

His Excellency
POWELL CLAYTON,
etc., etc., etc.

Mr. Hay to Mr. Clayton.

No. 646.

DEPARTMENT OF STATE,
WASHINGTON, *November 16, 1898.*

POWELL CLAYTON, *Esquire,*
etc. etc., City of Mexico.

SIR:

I have to acknowledge the receipt of your No. 654, of the 27th ultimo, transmitting the suggestion of Mr. Mariscal that the Water Boundary Convention of March 1, 1889, between the United States and Mexico, be extended for a further period of one year from December 24, 1898, and that you would be empowered to sign the new Convention.

Having referred your despatch and its enclosures to General Anson Mills, the United States member of the Boundary Commission, for his recommendation in the matter, I enclose a copy of the reply which I have just received from him, in which he clearly sets forth the present status of questions before the Commission and states his conviction that its life should be extended for another year.

The Department has no objection to the extension of the Convention from December 24, 1898, as suggested by Mr. Mariscal, but it prefers that the extending convention should be signed in Washington.

You are instructed therefore to urge that powers be given the Mexican representative at Washington for the purpose.

As the Convention must be agreed upon, signed, ratified, ratifications exchanged and proclaimed by both Governments before the 24th proximo, the importance of undelayed action is apparent.

I am, Sir, Your obedient servant,

JOHN HAY.

Enclosure: From General Anson Mills, November 9, 1898.

[Inclosure.]

General Mills to Mr. Hay.

DEPARTMENT OF STATE.

INTERNATIONAL (WATER) BOUNDARY COMMISSION.

UNITED STATES AND MEXICO.

Treaties of 1884 and 1889.

WASHINGTON, D. C., *November 9, 1898.*

To the Honorable,

The SECRETARY OF STATE,

Washington, D. C.

SIR:

I have the honor to acknowledge the receipt of your letter of the 4th instant, enclosing a communication from our Minister to Mexico, covering a letter from Mr. Mariscal, Secretary of State for Mexico, regarding an extension for one year from December 24th, 1898, of the Convention of March 1st, 1889, between the United States and Mexico.

The status of this Commission at present is as follows: It has adjusted all matters submitted to it to the satisfaction of both governments save in three important cases; that of the Chamizal at El Paso, Texas, where the two Commissioners failed to agree and wherein for this case only this government proposed to Mexico the addition of a third member, still under consideration by Mexico; the proposed elimination of what are known as "Bancos" (small isolated islands formed by the cutting off of bends in the Rio Grande) from the operation of the Treaty of 1884, recommended by the Commissioners and approved by this government but still under consideration by Mexico; and, the subject of the Equitable Distribution of the Waters of the Rio Grande for which the Commissioners recommended an international dam and reservoir, approved by Mexico but still under consideration by this government.

There is now no business before the Joint Commission which can be attended to until one of the governments has definitely acted upon one or another of the above-mentioned subjects, but nevertheless I consider it imperative that the life of the Commission be extended for one year.

These three subjects were the most important submitted to the Commission during its five years existence, and I am not at all

satisfied with the progress the Commission has made therein, in that there has appeared to me to have been too much continuous procrastination. I, however, acquit myself so far and to the end that I am stand acquitted in the future, I beg to submit herewith correspondence between myself and the new Commissioner for Mexico, Señor Don Jacobo Blanco, wherein it will be observed that there are new delays arising regarding the elimination of the bancos.

To the end of an early and satisfactory determination of this subject I beg, if considered proper by your Department, that these papers be forwarded to our Minister, Mr. Clayton, that in his discussion with Minister Mariscal he may have as far as practicable, a more intelligent understanding of the views of the two Commissioners

If Minister Mariscal accepts the recommendation of Commissioner Blanco there will probably be several years delay in this matter which has already, in my opinion, been delayed too long. I would recommend rather than further delay that Articles I and II of the Treaty of 1884 be literally complied with and the boundary established around these bancos, for while it will necessarily be very confusing and unsatisfactory it will be better than no boundary at all.

In regard to the Chamizal Case I again earnestly request that the matter of a third Commissioner be again brought forward and either that or some other method of an early settlement be decided upon. The question of the international dam cannot, I understand, be reopened until the Supreme Court has decided upon the questions now before it.

I have the honor to be,

Very respectfully yours,

ANSON MILLS

*Brigadier General, U. S. A., (Retired),
Commissioner.*

Enclosures:

Letter of Commissioner Blanco enclosing report of Mr. Mariscal,

Letter of Commissioner Blanco to the United States Commissioner,^a

Copy of proposed eliminating treaty.

^a [This should read "Letter to Commissioner Blanco from the United States Commissioner."—Agent's note.]

[Sub-inclosure.]

*Señor Blanco to General Mills.*EL PASO, TEXAS, *November 4th, 1898.*

SIR:

I have the honor to inclose you copy of the report to which I made reference in my letter of October 29th.

I have the honor to remain,

Yours very respectfully,

JACOBO BLANCO,
Mexican Commissioner.

To Brigadier General ANSON MILLS,
United States Commissioner, etc.

[Translation.]

[Sub-inclosure 2.]

*Señor Blanco to the Mexican Secretary for Foreign Affairs.*EL PASO, TEXAS, *October 29, 1898.*

MR. SECRETARY:

Referring to my communication No. 6 of the 24th instant, I now have the honor to make the following report, which has reference to the concluding portion of the memorandum of October 17th, 1898, of the United States Minister.

Taking up the matter from its origin, I have been over the documents which I found in the archives of this Commission, relative to claims to the "bancos" of Vela, Grangeno and Santa Margarita, and I found at once that the difficulties on those bancos were the principal ones which led to the creation of this Commission, and that they were, consequently, the first cases that were examined by it.

The preliminary decisions of the Commission declared that the Mexican claimants in the cases of Vela, Grangeno and Santa Margarita were right, and that the United States claimants in the case of the Banco de Camargo were right. Nevertheless, the Commissioners suspended their decision, and in their report of January 15th, 1895, to which the United States Minister refers, they ask, for the reasons stated in said paper, the modification of Articles I and II of the convention of 1884, so that Bancos that meet certain conditions there-in stated, may be transferred to the jurisdiction of the country in which they are physically situated, that is to say, on the right or the left of the present or future current of the river, i. e. the United States or Mexico.

This proposition was initiated by the United States Commissioner, and his Government has hitherto favored it. You, Mr.

Secretary, ordered that a Commission of Engineers should examine it in this capital. The minority of that Commission accepted it, with certain restrictions and modifications. The majority rejected it unconditionally, and suggested that a fuller examination should be made, or that a plan of the river should be drawn throughout the extent of those bancos.

That work was ordered by the two Commissioners in their journal of November 27th, 1897, and the Consulting Engineers, under date of May 30th, 1898, made their preliminary report, accompanied by the plans. By the journal of June 14th, 1898, to which the United States Minister likewise refers, and at the initiative, this time, of the Mexican Commissioner, the elimination of the bancos was again proposed to the Governments, or rather, the first proposition with respect to their elimination was ratified, for the reasons therein stated, which are those which I am about to take the liberty to examine, obeying, in so doing, only the superior order, Mr. Secretary, which you were pleased to give me in your communication mentioned at the beginning.

With regard to the first reason stated by the Commissioners, I think that Articles I and II cover all the phenomena, including that of the Bancos, which may present themselves. If there is any deficiency in these articles, owing to the accretion of the bancos and the manner of their formation, I think that it might be remedied by one or more reglementary articles to be proposed by the Commission, and approved by both Governments.

As to the second, it seems to me that its effect would be considerably diminished as regards the extent of the line, if, by means of another reglementary article, it should be provided that, in an abandoned bed, there was no necessity to preserve all the curvilinear elements, but that it was sufficient to replace it by a polygonal line whose sides should be mean or compensatory lines of the curvilinear surface.

With respect to the complication which it is stated will result from the boundary line's being partly in the water and partly on land, it is inevitable; and, although the circumstances are somewhat different owing to the fact that the river is not navigable in the upper portion of the boundary, it is to be observed in this connection, that, in the case of San Elizario the articles of the treaty were enforced, and, up to the present time, no complications have arisen from the land and water boundary.

The third reason, which has reference to the cost of the monument is not, I think, very important, for, whatever might be

their warrantable cost, without any relation to the value of the lands, ample compensation therefor would be found in the elimination of the fear of claims or disputes between the two nations.

In the supplementary reasons of the Commissioners, I take the liberty especially to differ from their reasonings. They say: "To all these reasons and arguments stated with all clearness and full knowledge of the case by the Consulting Engineers in their detailed report, which throws sufficient light upon the decision of this case, the advantages must be added which will accrue to both Governments from the establishment, in a constant and invariable manner, of the boundary line along the river, whatever may be its changes hereafter."

It appears to me, beyond a doubt, that if the land boundary is eliminated, as is proposed by the Commissioners, the line may be called certain and constant which is furnished by the mass of water, which will continue to move always transversely hereafter, as it has done in the past, and especially in the last forty-five years, in which it has been possible to measure its movements. And, not only would the boundary line be a moveable line, but, in many cases, those movements could not be measured.

In the English copy, which is the only one that I have of the aforesaid report of the consulting engineers, some passages occur which, being translated, read as follows: "In many cases it has been exceedingly difficult to say positively which the "normal channel" of the river is. We have supposed that the space which we found filled with running water (the river was very low, although a little above the lowest water-mark, while we were at work) constituted that normal channel, and we have drawn the red line approximately in its center. As the channel is constantly changing, and as each rise and fall of the river alters the position of the center and consequently changes the dividing line, we have put it in the drawing in an approximate manner."

In another part of the report, the following is found: "Even while we are writing, the river may have increased or diminished to the extent of several kilometers between the San Juan and the Gulf."

In another part of the same report the following is found: "In the turn to the south, in Kilometer III, the water leaves the river on the United States side, running across the north arm of Gran-
geno Lagoon, and thence to the northeast, along a depression, until it reaches an outlet known as Arroyo Colorado (Red Creek) across ~~which~~ it finally reaches the Gulf, and thus never returns

to the river. There are several other similar places down the river, for instance, at La Blanca and Santa Maria on the United States side and at Soliseño on the Mexican side, where the water flows out of the river and never returns to it. We shall refer to this more at length in our final report concerning this work, which will accompany the final drawings."

As, besides the final drawings on the scale of 1:5000, it is provided in the aforesaid journal of June 14th, 1898, that drawings shall be prepared on a reduced scale, it seems to me proper to wait until those drawings on a reduced scale are made, since a better idea of the whole body of the river may thereby be formed than from those on the scale of 1:5000 which the Department under your charge has already seen. It likewise seems to me that it would be well to wait for the appearance of the final and amplified report to which the Consulting Engineers refer.

In view of all the foregoing, Mr. Secretary, I should think, with due deference to your more correct and more authoritative opinion, that the United States Minister should be informed that, for the better and more accurate decision of the case of the elimination of the "bancos" the conclusion will be awaited of the final drawings by the consulting engineers and of the full report which they are to make.

I reiterate to you, etc., etc.

JACOBO BLANCO,
Mexican Commissioner.

To the SEC. FOREIGN AFFAIRS.

[Sub-inclosure 3.]

General Mills to Señor Blanco.

DEPARTMENT OF STATE.

INTERNATIONAL (WATER) BOUNDARY COMMISSION.

UNITED STATES AND MEXICO.

Treaties of 1884 and 1889.

WASHINGTON, D. C., *November 9, 1898.*

To Mr. JACOBO BLANCO,

Mexican Commissioner,

International (Water) Boundary Commission,

El Paso, Texas.

MY DEAR MR. BLANCO:

I am just in receipt of yours of the 4th instant, enclosing copy of your report to your Secretary of State regarding the question now before our two countries with reference to the elimination of what

are known as "Bancos" from a strict consideration of Articles I and II of the Treaty of 1884. I have read your letter carefully and am seriously disappointed in its tenor.

This subject of elimination has been before the Joint Commission since November 1, 1894, over four years, and during that time has received the assiduous study and consideration of the Joint Commission, which has done everything in its power to elucidate as clearly as possible every point in detail that could, in my opinion, have any bearing upon the question.

The Commission was organized in the first instance for the consideration of this question in the case of El Banco de Vela where the two countries had become arrayed in hostile attitude, three citizens of each country being arrested from the banco and imprisoned in the other country by officers of each. The military also were arrayed on each side of the river and it was an emergency of the most urgent necessity, requiring some immediate and definite settlement of the case which our Commission was charged to make. In the prosecution of our investigations we discovered or thought we discovered that these bancos were peculiar, small and insignificant but numerous, formed of newly made land with few or no inhabitants, little cultivation or other improvements and had always been regarded as of doubtful sovereignty, and used as a refuge for law-breakers of each country when pressed by the officers of the other. And though diligent search was made we could find no precedent in international law, or indeed of similar questions that had been raised by two countries. We did find, however, that what are known as "Avulsive Changes" in arcifinious boundaries were clearly comprehended and laws for their consideration well defined for centuries, so well and clearly defined and authorities quoted in the celebration opinion of Attorney General Cushing referred to in our proceedings.

We would have been glad to have proposed the elimination also of these avulsive changes from consideration in reference to the boundary on the Rio Grande, but we hesitated to include them because in the first place, we did not believe that either of our countries had authority or disposition to forcibly expatriate any great number of its citizens or change the sovereignty of any great portion of its dominion, where the sovereignty and citizenship were so well established as it must be on land not recently formed where the sovereignty had been well established and where the citizenship had been well and unquestionably maintained. Therefore we made the express provision in our recommendation for elimina-

tion, that only bancos having "less frontage on said new channel of the river than it has in depth at right angles with the general direction of the new channel" should be included in the elimination, thus clearly, as we thought, defining the difference between lands newly formed where the sovereignty was not well established and the inhabitants thereof where their citizenship was likewise not well established, from true avulsions where the contrary was true.

I therefore think that your reference to an application of the Articles of the treaty to the Island of San Elizario case was not quite fair or at least that you misapprehended the distinction between that truly avulsive change and the typical bancos to which only, we proposed to be included in the elimination. I think too, you have taken too literally the casual remarks of the engineers in their extended report of May 31st, wherein you appear to observe inconsistencies. When they speak of the establishment of a boundary "in a constant and invariable manner" it did not produce the impression on my mind that this boundary would be literally constant and fixed like the Sun, but it would be constant with the movements of the river, and in fact they so literally stated "along the river whatever may be its changes thereafter."

Then again their reference to the escape of waters from the Grangeno Lagoon which never returns to the Rio Grande but passes to the Gulf by way of the Arroyo Colorado, and several other similar places down the river, this was not, in my opinion, mentioned by the engineers with any reference to the question of elimination of bancos proper but was simply a diversion calling attention to the possibility of a great avulsion, leaving the City of Brownsville on the South side of a possible new channel; and then again I beg to call your attention to the fact that there is also a possibility of a new channel by avulsion, passing South of Matamoros to the Gulf. Such possibilities were originally discussed by the Joint Commission and led up to the determination not to include such avulsive changes as you refer to in the San Elizario Case in the proposed elimination.

The Engineers are not called upon to make any further report. This was merely a digression on their part. Their report has been accepted as complete and full and they were only directed to proceed and complete the maps as far as practicable and then await the final determination of the two governments on the question of elimination before finally completing them.

But the greatest disappointment I discover in your letter is the proposition to await the completion of the 57 maps now in course of preparation by the engineers which they—the engineers—have been distinctly and positively instructed by order of the Commission not to complete until the two governments shall have determined the question of elimination, and thus enable them to place the boundary in the rivers channel in one case—that is in case of elimination—or around the bancos in the bed of the abandoned channel in case they are not eliminated. Further than this the Joint Commission directed positively and definitely that for the purpose of affording all possible information to the two governments in their consideration and determination of the question of elimination, they should make a sketch map showing in detail every important element entering into this question such as the number of acres in each banco, the number of inhabitants and probable citizenship thereof, the number of acres cultivated, and finally to mark distinctly the location the boundary would have in case of elimination and also distinctly the location the boundary would have in case of non-elimination. This map is, I believe about 75 feet long on a scale of 1:5000, and conveys at a glance the relative positions of the two possible boundaries and on further examination will show all the questions that it was thought by the engineers or commissioners would possibly enter into consideration of the proposed amendment to the treaty. On the other hand the maps now in preparation are in 57 different sheets on the same scale, and solely different because of additional conventional topographical symbols in no wise affecting the question, each separate from the other, and cannot, unless the engineers violate the instructions of the Commissioners, be so completed as to represent either the location of the boundary in case of elimination or the location of the boundary in case of non-elimination.

You refer also to drawings that shall be prepared on a reduced scale and suggest that it seems proper to await until these drawings on a reduced scale are made, since a better idea of the whole body of the river may thereby be formed than from those on a scale of 1:5000. These latter maps are referred to in the directions of the Joint Commission to the engineers as “key map sheets” and while their number or scale was not stated, it was understood by me that there would be but two sheets embracing the territory occupied by the 57 sheets on a scale of 1:5000. This would bring them to a very diminutive scale of about 1:150,000—so

diminutive that it will be impossible to delineate many of the details that are necessary to be taken into consideration in the determination by the two governments of the question of elimination.

In view of what is explained above, I beg of you to reconsider your recommendation to your Secretary of State that he await the completion of these maps before finally determining the case, but proceed at once to make some decision in any direction that may correspond with your sense of duty in the matter. And in this connection I beg to say that I am not wedded entirely to the principle of elimination. I think it better than to carry out the literal import of Articles I and II of the Treaty of 1884 though I do not believe the framers of that Treaty had in conception anything like the boundary around these bancos.

I have for four years advocated this elimination but it is time that some decision was had and I think it better that we revert to the literal construction of the treaty and establish the boundary around the bancos than to continue this procrastination.

This is supposing, of course, that you have nothing better to suggest than the two alternatives of elimination or non-elimination. From some suggestions in your letter it occurs to me that you might have some method that you consider better than either. If so, I would be very glad to have you express them and I assure you that I will join you in anything that will simplify the very embarrassing condition that non-elimination will place the question of the boundary in. I therefore request, in case you are not able to reconsider your action recommending delay, that you redraft the proposed treaty, a copy of which is sent you, making any alterations or amendments that you think proper in the matter, and if possible I will agree with you and submit this to my government for immediate consideration, in order that this question may at once and finally be settled so as to enable us to proceed with the most important work that has ever been presented to the Commission—now in hand for over four years.

As I understand it, there is now no business before the Commission which it is possible for us to undertake. All matters submitted to us have been adjusted to the satisfaction of both governments save in the three most important cases; that of the Chamizal at El Paso, Texas, wherein the Commissioners failed to agree and where for this case only, this government has proposed to Mexico the addition of a third member; the proposed elimination of the bancos which is still under consideration by Mexico

and the subject of the equitable distribution of the waters of the Rio Grande which is still under consideration by the United States. Until at least one of these cases are decided we have no business that can be properly brought before us jointly, unless you should desire to reconsider some question that has heretofore been acted upon, in which case if you will signify the same, I will meet you at any date you name for that purpose.

Very respectfully yours,

ANSON MILLS
Brigadier General, U. S. A., (Retired),
Commissioner.

[Sub-inclosure 4.]

Whereas a Convention between the United States of America and the United States of Mexico, touching the boundary line between the two countries, where it follows the bed of the Rio Grande and the Rio Colorado, to avoid difficulties which may arise through the changes of channel to which those rivers are subject through the operation of natural forces, which Convention was duly signed by their respective plenipotentiaries at Washington on the twelfth day of November, one thousand eight hundred and eighty-four, and duly ratified by the two governments in the city of Washington on the thirteenth day of September one thousand eight hundred and eighty-six; by which Convention it was stipulated in Articles One and Two thereof, as follows:—

“The dividing line shall forever be that described in the aforesaid Treaty and follow the centre of the normal channel of the rivers named, notwithstanding any alterations in the banks or in the course of those rivers, provided that such alterations be effected by natural causes through the slow and gradual erosion and deposit of alluvium and not by the abandonment of an existing river bed and the opening of a new one.”

“Any other change, wrought by the force of the current, whether by the cutting of a new bed, or when there is more than one channel, by the deepening of another channel than that which marked the boundary at the time of the survey made under the aforesaid Treaty, shall produce no change in the dividing line as fixed by the surveys of the International Boundary Commission in 1852; but the line then fixed shall continue to follow the middle of the original channel bed, even though this should become wholly dry or obstructed by deposits.”

And whereas it has been discovered by the present International Boundary Commission in its efforts to fix and mark the Boundary abandoned by the Rio Grande in the class of changes last before described in said Convention in Article Two thereof, that there is a class of such changes known as "Bancos," where the river, by gradual erosion and deposit, doubles upon itself suddenly cutting through, abandoning the old channel, and forming a new one of very indefinite if any length whatever, leaving an isolated or almost entirely isolated tract of land on one side of the River which according to the terms of said Treaty is subject to the dominion and jurisdiction of the Nation on the opposite side, with no, or in any event, very little contiguous territory to the river's channel or main boundary line, and that in the after changes in the river's bed, which are constantly being made, these "Bancos" are often left distant from any touch with the river's current by gradual erosion and deposit, leaving the question of accretion as between the "Banco" and adjacent lands, (Which belong to the opposite Nation) very difficult of solution.

Now therefore, it appearing that the application of the principle governing avulsive changes, as laid down in said before mentioned Article Two of the Convention of one thousand eight hundred and eighty-four, if applied to such avulsive banco changes as before described, would not tend to simplify and define the boundary but rather to confuse and complicate it, it is desirable to provide another method for their treatment and consideration, the Government of the United States of America and the Government of the United States of Mexico have resolved to conclude a convention which shall lay down rules for the determination of such questions, and have appointed as their Plenipotentiaries

Who, after exhibiting their respective Full Powers, found in good and due form, have agreed upon the following article:

ARTICLE I.

Whenever, in determining the true boundary under Article Two of the Treaty of November 12th, 1884, any change wrought by the force of the current in cutting a new bed and abandoning the old channel, wherein the land thus separated from the river's current in the new channel has less frontage on said new channel of the river than it has in depth at right angles with the general direction of the new channel, then the true boundary shall pass

from the old bed of the river to the new channel, and the domain and jurisdiction over the "Banco" thus separated shall pass to that nation on the side of the river's channel on which it is left:

Provided, that the inhabitants of the land may retain their citizenship in the country to which they belong if they so elect, and the owners of the land retain title thereto: The transfer of such "Bancos" to be announced with definite meets and bounds by an International Boundary Commission in the form and manner that other judgments on questions submitted to them, are announced.

Mr. Hay to Mr. Clayton.

No. 649.

DEPARTMENT OF STATE,
WASHINGTON, *November 19, 1898.*

POWELL CLAYTON, *Esquire,*
etc. etc., City of Mexico.

SIR:

I have to acknowledge the receipt of your despatch No. 664, of the 9th instant, enclosing a copy of a note from the Mexican Minister for Foreign Affairs stating the further action of his Government towards the elimination of the "bancos" in the Rio Grande.

I am, Sir, Your obedient servant,

JOHN HAY.

Mr. Hay to Mr. Clayton.

No. 662.

DEPARTMENT OF STATE,
WASHINGTON, *December 1, 1898.*

POWELL CLAYTON, *Esquire,*
etc. etc., City of Mexico,

SIR:

I have to acknowledge the receipt of your No. 676, of the 22nd ultimo, as well as your telegram of the same day's date which it confirms, in regard to the extension of the International Water Boundary Convention of March 1, 1889, for a further period of one year from December 24, 1898.

In reply I have to inform you that arrangements have been made to sign the treaty here with the Mexican Chargé d'affaires *ad interim* on the 2nd instant.

I am, Sir, Your obedient servant,

JOHN HAY.

Mr. Hay to Mr. Clayton.

No. 115.

DEPARTMENT OF STATE,
Washington, April 10, 1899.

FENTON R. MCCREERY, *Esquire,*
etc, etc, etc, Mexico.

SIR:

I enclose herewith two photolithographic copies, of four sheets each, of the preliminary sketch of the Rio Grande river from Rio Grande City to the Gulf, surveyed by the International (Water) Boundary Commission, United States and Mexico, for the information of the two Governments, to enable them to come to a definite decision in regard to the elimination or non elimination of the bancos in that part of the river.

Copies of letters from our representatives on the Commission, in relation to the matter, are also herewith enclosed.

You will give one set of the maps to the Mexican Minister for Foreign Affairs, and urge upon him the early consideration of the question of the elimination of the bancos, in accordance with the conclusions and recommendations of the Commission.

I am, sir, your obedient servant,

JOHN HAY.

Enclosures:

Maps above described.^a

From General Mills, February 6, 1899.

From same, April 4, 1899.

[Inclosure 1.]

General Mills to Mr. Hay.

DEPARTMENT OF STATE.

INTERNATIONAL (WATER) BOUNDARY COMMISSION,

UNITED STATES AND MEXICO.

Treaties of 1884 and 1889.

WASHINGTON, D. C., *February 6, 1899.*

To the Honorable,

The SECRETARY OF STATE,

Washington, D. C.

SIR:

Referring to my communication of June 16th last forwarding additional proceedings of the Joint Commission relation to the question of elimination of the bancos on the lower Rio Grande

^a [Inclosures omitted.—Agent's note.]

and the extensive sketch map enclosed therewith, a duplicate of which was forwarded by the Mexican Commissioner to his government on the same date, I beg to state that I received a communication from the new Mexican Commissioner Señor Jacobo Blanco dated October 29th last, informing me that in his opinion this extensive sketch map before referred to, did not give sufficiently in detail all the data required by his government for a resolution on the subject as one on a smaller scale with more definite details would give. I therefore took the responsibility without further consultation with your Department, to join him in a request to the engineers, to prepare such a map as he requested in colors, showing more graphically the character, extent and location of the bancos involved, and I enclose copy of the same herewith.

You will observe that the unpainted channel in black marks the approximate location of the Emory-Salazar survey, the dotted red line shows the boundary under the existing treaties, the dotted yellow line shows the new boundary in case of elimination, bancos colored red show those now belonging to the United States and those colored green those now belonging to Mexico according to existing treaties. By a reference to the engineers report in former proceedings, you will observe that the aggregate number of acres that would be transferred by elimination from the sovereignty of Mexico to that of the United States exceed the number of acres that would be transferred from the sovereignty of the United States to Mexico by about 2280 acres. You will also observe that elimination would shorten the length of the boundary line from Rio Grande City to the Gulf about 87 miles.

Mr. Blanco has forwarded a copy of this last map to his government which now, I believe, places in their possession everything that they have asked for to elucidate this question of elimination, and since it has been so long under consideration, I have the honor, very respectfully, to request that your Department make some effort to expedite an early resolution in the matter, as the subject has now been before the two governments since our report and recommendation of January 15th, 1895, the sovereignty of the Banco de Vela, which was the cause of the organization of this Commission, being yet undetermined. Mr. Blanco has advised me that his government is in possession now of all information possible for the Joint Commission to give it in the matter and he has so informed his government.

You will observe by the enclosed map that the separate maps of the survey from Rio Grande City to the Gulf embrace 54 sheets on a scale of one in five thousand. These are now all completed as far as it is possible to complete them until the alternative location of the boundary is definitely decided by the two governments; in one case along the river's channel and in case of non-elimination around each of the 67 bancos.

As soon as a decision is had these maps will be completed and printed for public information that the questions of jurisdiction may not longer agitate the contestants.

There remains now before the Joint Commission no work that it is possible to do until this decision is had. There has been presented to the Commission the case of a banco a few miles below El Paso, Texas, but it is impracticable to take up the subject until it is known whether the bancos shall be eliminated or not. There also remains the demarcation of the four international bridges at El Paso but as they are located on the land in contest in the Chamizal Case Mexico declines to join in their demarcation until that Chamizal Case shall be determined, and it will be remembered that that case is now without the consideration of the Joint Commission, Mexico having refused to add a third Commissioner, leaving it entirely in a diplomatic state.

I have the honor to be,

Very respectfully yours,

ANSON MILLS

*Brigadier General U. S. Army, (Retired),
Commissioner.*

[Inclosure 2.]

General Mills to Mr. Hay.

DEPARTMENT OF STATE.

INTERNATIONAL (WATER) BOUNDARY COMMISSION

UNITED STATES AND MEXICO

Treaties of 1884 and 1889.

NO. 2 DUPONT CIRCLE,

WASHINGTON, D. C., *April 4, 1899.*

To the Honorable,

The SECRETARY OF STATE,

Washington, D. C.

SIR:

I have the honor to inclose herewith six photolithographic copies (in four sheets each) of the preliminary sketch of the Rio

Grande from Rio Grande City to the Gulf, surveyed by this Commission, for the information of the two governments in enabling them to come to a definite resolution in regard to the elimination or non-elimination of the "bancos" in that part of the Rio Grande. This map gives in colors the details requested, and the four copies are inclosed as requested by Mr. Ades.^a

Very respectfully yours,

ANSON MILLS
Brigadier General U. S. Army, (Retired)
Commissioner.

Mr. McCreery to Mr. Hay.

NO. 127.

EMBASSY OF THE UNITED STATES,
 MEXICO, April 21st, 1899.

Honorable JOHN HAY,
Secretary of State,
Washington, D. C.

SIR:

I have the honor to acknowledge the receipt of your No. 115, of the 10th instant, enclosing two photolithographic copies, of four sheets each, of the preliminary sketch of the Rio Grande River from Rio Grande City to the Gulf, surveyed by The International (Water) Boundary Commission, United States and Mexico, for the information of the two Governments to enable them to come to a definite decision in regard to the elimination or nonelimination of the bancos in that part of the river. Copies of letters from General Anson Mills, Commissioner, were also enclosed.

Following your instructions, I have today forwarded, to the Minister for Foreign Affairs, one set of the maps, and urged upon him in a note, copy enclosed, the early consideration of the question of the elimination of the bancos, in accordance with the conclusions and recommendations of the Commission. I also stated in this note that an early consideration of this question would seem to be alike advantageous to both Governments.

I have the honor to be, Sir,

Your obedient servant,

FENTON R. MCCREERY.

Enclosure: Mr. McCreery to Mr. Mariscal, April 21, 1899.

^a [Inclosure omitted.—Agent's note.]

[Inclosure.]

*Mr. McCreery to Señor Mariscal.*MEXICO, *April 21, 1899.*

His Excellency,

IGNACIO MARISCAL,

Minister for Foreign Affairs.

Mr. MINISTER:

I have the honor to enclose, herewith, a photolithographic copy, of four sheets, of the preliminary sketch of the Rio Grande River from Rio Grande City to the Gulf, surveyed by The International (Water) Boundary Commission, United States and Mexico, for the information of the two Governments, to enable them to come to a definite decision in regard to the elimination or non-elimination of the bancos in that part of the river.

I am instructed to urge upon Your Excellency the early consideration of the question of the elimination of the bancos, in accordance with the conclusions and recommendations of the Commission. It would seem that an early consideration of this question would be alike advantageous to both Governments.

I have the honor to renew to Your Excellency the assurances of my most distinguished consideration.

FENTON R. MCCREERY,

Enclosures.^a*Mr. Hay to Mr. McCreery.*

DEPARTMENT OF STATE,

WASHINGTON, *April 22, 1899.*FENTON R. MCCREERY, *Esquire,**'etc., etc., etc., Mexico.*

SIR:

Referring to my instruction No. 115, of the 10th instant, I have to enclose herewith a letter from the United States representative on the International (Water) Boundary Commission relative to the publication by the Commission of the "Incomplete Proceedings of the International (Water) Boundary Commission, United States and Mexico, Treaties of 1884 and 1889"—two copies of which I also enclose.^b

^a [Inclosures omitted.—Agent's note.]

^b [These Incomplete Proceedings of the International Boundary Commission comprise substantially the first 205 pages of the "Proceedings" as published in 1903 and submitted herewith—Agent's note.]

You will deliver one copy of this publication to the Mexican Minister for Foreign Affairs as supplementary to the maps transmitted to you with my instruction No. 115, and again urge upon him the desirability of an early consideration of the question of the elimination of the bancos in the Rio Grande river with a view to a definite decision being reached by the two Governments in the matter.

I am, Sir, Your obedient servant,

JOHN HAY.

Enclosures:

From General Mills, April 22, 1899.^a

[Inclosure.]

General Mills. to Mr. Hay.

DEPARTMENT OF STATE.

INTERNATIONAL (WATER) BOUNDARY COMMISSION.

UNITED STATES AND MEXICO.

Treaties of 1884 and 1889.

NO. 2 DUPONT CIRCLE,
WASHINGTON, D. C., *April 22, 1899.*

To the Honorable,

The SECRETARY OF STATE,

Washington, D. C.

SIR:

I have the honor to hand you herewith two printed copies of the Incomplete Proceedings of the International (Water) Boundary Commission, United States and Mexico, Treaties of 1884 and 1889, which embrace all the material acts of the Commission since its organization, together with such of my letters of transmittal as I thought would throw light upon the questions and difficulties surrounding the different cases treated of.

The printing and lithographing of these proceedings have been in course of preparation for some time, in contemplation of printing one thousand copies of the entire proceedings for public distribution as soon as the important questions of elimination of the bancos and the final determination of the Chamizal Case shall have been decided upon.

^a [Inclosures omitted.—Agent's note.]

A few of these incomplete proceedings were ordered in order to facilitate the consideration by the two governments and their representatives, of the questions before referred to. One of the copies herewith is intended for your Department; the other if deemed proper, I respectfully request that you transmit to our Ambassador to Mexico, General Powell Clayton.

You will find the question of El Chamizal treated on pages 42 to 100 inclusive, and the question of elimination is treated on pages 173 to 209 inclusive.

Very respectfully your obedient servant,

ANSON MILLS

*Brigadier General, U. S. Army, (Retired),
Commissioner.*

Mr. McCreery to Mr. Hay.

No. 133.

EMBASSY OF THE UNITED STATES,
MEXICO, *April 28th, 1899.*

Honorable JOHN HAY,
*Secretary of State,
Washington, D. C.*

SIR:

I have the honor to acknowledge the receipt of your No. 122, of the 22nd instant, in which, referring to your No. 115, of the 10th instant, you enclose a letter from the United States representative on the International (Water) Boundary Commission, and two printed copies of the "Incomplete Proceedings of the International (Water) Boundary Commission, United States and Mexico, Treaties of 1884 and 1889."

Following your instructions, I have today forwarded one copy of this publication to Mr. Mariscal, as supplementary to the maps enclosed in my note of the 21st instant, copy of which was enclosed in my No. 127, of the 21st instant. In my note to Mr. Mariscal, copy enclosed, I stated that I was instructed to again urge upon him the desirability of an early consideration of the question of the elimination of the bancos in the Rio Grande River with a view to a definite decision being reached by the two Governments in this matter.

I have the honor to be, Sir,
Your obedient servant,

FENTON R. MCCREERY.

[Inclosure.]

*Mr. McCreery to Señor Mariscal.*MEXICO, *April 28th, 1899.*

His Excellency

IGNACIO MARISCAL,

Minister for Foreign Affairs.

Mr. MINISTER:

I have the honor to send, herewith, a printed copy of the "Incomplete Proceedings of the International (Water) Boundary Commission, United States and Mexico, Treaties of 1884 and 1899."

I am instructed to deliver this publication to Your Excellency as supplementary to the maps enclosed in my note, of the 21st instant, and to again urge upon Your Excellency the desirability of an early consideration of the question of the elimination of the bancos in the Rio Grande River with a view to a definite decision being reached by the two Governments in the matter.

I have the honor to renew to Your Excellency the assurances of my most distinguished consideration.

FENTON R. MCCREERY.

Enclosure.

Mr. McCreery to Mr. Hay.

No. 139.

EMBASSY OF THE UNITED STATES,

Mexico, May 4, 1899.

Honorable JOHN HAY,

Secretary of State, Washington, D. C.

SIR:

I have the honor to refer to my No. 127, of the 21st ultimo, enclosing copy of my note to the Foreign Office urging, in response to your instruction No. 115, of the 10th ultimo, the early consideration of the question of the elimination of the bancos in the Rio Grande; and to my No. 133, of the 28th ultimo, containing a copy of my note to the Foreign Office further urging, in response to your instruction No. 122, of the 22nd ultimo, the early consideration of this question.

I enclose, herewith, a copy and translation of a note from Mr. Mariscal, in reply to my notes above mentioned.

Mr. Mariscal states, by direction of the President, to whom my notes above referred to and all other matter relating to the case, were submitted, that Mexico, like the United States, is in favor of the ~~elimination~~ elimination of the bancos, judging it to be the only way

to avoid questions of sovereignty and jurisdiction. He also states that under the old and accepted system of defining the frontier boundary by rivers, one bank must belong to one country and the opposite bank to the other country; that the actual boundary, where the bancos are situated, interferes with the application of this basis, and that therefore the elements thus interfering should be eliminated.

This principle being accepted, Mr. Mariscal proposes to incorporate the hydrographic studies of the Commission into a Convention.

Mr. Mariscal proposes the bases for a convention as follows:

"I have the honor, therefore, by direction of the Chief Magistrate, to propose to you that our Governments carry it into effect on the following bases, which you will please submit, if you think it proper, to your Government: Clear and exact reference to the topography, with designation by name of the bancos to be eliminated, and also to the articles of prior treaties which are in conflict with the principle of the elimination of bancos, and which, therefore, should be modified; foreseeing future changes in the course of the Bravo, and for a decision in view of them, to prorogue the International Commission for a prudent period. Lastly, the convention will have to establish rules relative to citizenship, property and servitudes on the bancos in question, in order that these rights may not be affected by the change of sovereignty and jurisdiction."

I have today addressed a note to Mr. Mariscal, copy enclosed, informing him that I have forwarded a copy of his note to you.

I have the honor to be, Sir,

Your obedient servant,

FENTON R. MCCREERY.

[Inclosure 1.]

Señor Mariscal to Mr. McCreery.

SECRETARÍA DE RELACIONES EXTERIORES,

MÉXICO, Mayo 1 de 1899.

Señor ENCARGADO DE NEGOCIOS:

Tuve el honor de recibir las atentas notas de Usted del 21 y 28 del próximo pasado Abril y con la segunda un ejemplar, elegantemente encuadernado, de los procedimientos de la Comision Internacional de límites, en calidad de obsequio que mucho agradezco. En ambas notas, por instrucciones del Gobierno que representa Usted, se sirve recomendar, con la urgencia propia del caso, la decisión definitiva sobre eliminar ó no eliminar los *bancos* que,

merced á causas naturales, se han formado en la parte del Bravo comprendida desde la afluencia del Rio Verde hasta la desembocadura en el Golfo de México, tal y como lo representan gráficamente las cuatro hojas respectivas de la copia fotolitográfica.

He dado cuenta de esas comunicaciones de Usted y de todos los antecedentes relativos al Señor Presidente de la República, y por su acuerdo tengo el honor de manifestar á Usted: que México, como los Estados Unidos, opina resueltamente por la eliminación de los *bancos*, juzgando que ella es el expediente único para precaver dificultades de soberanía y de jurisdicción. Dentro del antiguo y aceptado sistema, que hemos aplicado al Bravo, de aprovechar los rios para definir fronteras, hay que aceptar, como base invariable, que una ribera corresponda á una Nación y á su vecina la ribera opuesta. Los límites actuales, donde están los *bancos*, contrarían esa base, y por lo mismo nada hay mejor que eliminar, supuesto que ello es no sólo posible sino fácil, los elementos que la contrarían.

Aceptado el principio, queda por adoptar la forma para consagrarlo, y no puede haber otra forma sino el ajuste de una Convención Diplomática. La proponen y la preparan documentos que son perfectamente conocidos de Usted, á saber: las actas de la Comisión Internacional de límites del 15 de Enero de 1895, del 27 de Noviembre de 1897 y del 14 de Junio de 1898 y el proyecto de tratado que, en 29 de Febrero de 1896, sometió el Honorable Mr. Olney al Representante de México en Washington.

Esos documentos, sin embargo, adolecen de un serio inconveniente: usan de términos abstractos y de definiciones genéricas que pueden ser mañana fuente inevitable de funestas anfibologías. Basta para conjurarlas, atento el grado de adelanto de los estudios hidrográficos de la Comisión Internacional, aprovechar el mismo estudio y elevarlo hasta la categoría de parte de una Convención.

Tengo el honor, consiguientemente, por acuerdo del Primer Magistrado, de proponer á Usted que nuestros Gobiernos lleguen á ella, sobre las siguientes bases, que se servirá Usted someter, si lo estima oportuno, á su Gobierno: referencia clara y precisa, tanto á lo topografiado, determinando por sus nombres los *bancos* que se eliminan, cuanto á los artículos de tratados anteriores que pugnan con el principio de eliminación de bancos y que por lo mismo se modifican: Prevision de cambios ulteriores en el curso del Bravo, y para cualquiera decisión en vista de ellos, ~~proponer~~ por un término prudente la Comisión Internacional. ~~proponer~~, habrá que fijar en la Convención preceptos aplicables

á la ciudadanía, á la propiedad y á las servidumbres de los *bancos* de que se trata, para que esos derechos salgan ilesos del cambio de soberanía y de jurisdicción.

Renuevo á Usted, con este motivo, las seguridades de mi atenta consideración.

IGNO. MARISCAL.

Señor Don

FENTON R. MCCREERY,

&c. &c. &c.

[Inclosure 2.]

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,

MEXICO, *May 1, 1899.*

Mr. CHARGÉ D'AFFAIRES:

I had the honor to receive your notes of the 21st and 28th ultimo, and with the second a copy, elegantly bound, of the report of the proceedings of the International Boundary Commission, a present which I much appreciate. In both notes, under instructions from the Government which you represent, you recommend, with the urgency proper in the case, a definite decision as to the elimination or non-elimination of the *bancos* which, owing to natural causes, have been formed in that part of the Bravo between the points of affluence of the Rio Verde and its mouth in the Gulf of Mexico, as graphically represented in the four sheets of the photographic copy.

I have laid your communications, and all matter relating to the case, before the President of the Republic, and by his direction I have the honor to inform you that Mexico, like the United States, is decidedly in favor of the elimination of the *bancos*, judging it to be the only way to avoid questions of sovereignty and jurisdiction. Under the old and accepted system which we have applied to the Bravo, that of using rivers to define the frontier boundary, it must be accepted as an invariable basis that one bank belongs to one country and the bank opposite to the other. The actual boundary, where the *bancos* are situated, interferes with the application of this basis, and therefore nothing is better than to eliminate, granting that it is not only possible but easy, the elements which interfere with it.

This principle being accepted, it remains to adopt the form of applying it, and there can be no other form than that of a diplomatic convention. Documents with which you are perfectly familiar propose and prepare the way for it; they are: the Proceedings of the International Boundary Commission of January

15, 1895, of November 27, 1897 and of June 14, 1898, and the draft of the treaty submitted by the Honorable Mr. Olney to the representative of Mexico in Washington on February 29, 1896.

These documents are, however, open to a serious objection,—the use of abstract terms and generic definitions, which tomorrow may be an inevitable source of vexatious ambiguities. To do away with them, considering the degree of advancement reached in hydrographic studies by the International Commission, it will be sufficient to utilize this study and give it the rank of an agreement made under a convention.

I have the honor, therefore, by direction of the Chief Magistrate, to propose to you that our Governments carry it into effect on the following bases, which you will please submit, if you think it proper, to your Government: Clear and exact reference to the topography, with designation by name of the bancos to be eliminated, and also to the articles of prior treaties which are in conflict with the principle of the elimination of bancos, and which, therefore, should be modified; foreseeing future changes in the course of the Bravo, and for a decision in view of them, to prorogue the International Commission for a prudent period. Lastly, the convention will have to establish rules relative to citizenship, property and servitudes on the bancos in question, in order that these rights may not be affected by the change of sovereignty and jurisdiction.

I renew, etc.,

IGNO. MARISCAL.

Mr. FENTON R. MCCREERY,
etc. etc.

[Inclosure 3.]

Mr. McCreery to Señor Mariscal.

MEXICO, May 4th, 1899.

His Excellency,

IGNACIO MARISCAL,

Minister for Foreign Affairs.

Mr. MINISTER:

I have the honor to inform Your Excellency that, upon the receipt of Your Excellency's note, of the 1st instant, in relation to the elimination of the bancos in the Rio Grande, I forwarded a copy of the note to my Government.

I have the honor to renew to Your Excellency the assurance of my most distinguished consideration.

FENTON R. MCCREERY.

Mr. Hill to Señor Aspiroz.

DEPARTMENT OF STATE,

WASHINGTON, *October 9, 1899.*

Senor Don MANUEL DE AZPIROZ,

etc., etc., etc.

Mexican Embassy, Washington, D. C.

SIR:

By your note of June 24th last, relative to the claim of J. N. Ornelas and other Mexican citizens who were the owners of certain cattle that were confiscated and sold at public auction by officers of the custom house at El Paso, Texas, in 1891, you call attention to the note No. 28 addressed by the Minister of Foreign Affairs of your Government on July 9, 1898, to Mr. Romero, a copy of which he communicated to this Department on the 23rd of the same month, and you inquire what decision this Government has reached in the matter.

In the said note No. 28 Mr. Romero was directed to maintain:

1st. "That the cattle of Ornelas and his companions were seized for the most part, at least, in the bed of the Rio Grande nearer to the Mexican bank, and consequently, in territory that was unquestionably Mexican."

2nd. "That the two herders who had charge of said cattle were apprehended in the same place."

3rd. "That the cattle and the herders were taken to El Paso, where the former were sold at public auction and the latter were kept under arrest."

4th. "That there was no intention to smuggle, and

5th. "That, owing to the illegal sale of the cattle in question and to the unwarranted arrest of the herders, the indemnity asked should be granted."

The instructions to Mr. Romero referred to further stated that,

"If, unfortunately, the United States Government shall not agree to this demand, you will propose arbitration, in order that the case may be decided by an impartial judge, in view of the fact that both Governments have exhausted discussion without reaching an agreement."

Points 1 to 5, inclusive, of your Government's note were fully covered by this Department's of May 20, 1898, and by notes previously addressed by it to Mr. Romero on the subject. There remains therefore for consideration the further proposition of your Government that the case be submitted to arbitration. As regards

this proposition you will note that your Government in its note No. 28 above referred to expressly states that in view of the report of the International Water Boundary Commission in this case, it presented no further complaint on account of a doubtful violation of its territory, but that it did call attention to the weight of testimony and the presumptions stated in the aforesaid report, which appeared sufficient to settle the case in favor of the claimants. Waiving, therefore, the question as to the alleged violation of Mexican territory on the part of the United States customs officers, the claim would seem to rest entirely on the proposition of your Government's note to-wit: that there was no intention to smuggle, and that the seizure and sale of the cattle was illegal.

As regards the question of intent, the Secretary of the Treasury states that the United States customs officers while in the ordinary performance of their duties on the frontier, cannot be expected to enter into extended investigation as to the motives of alleged smugglers. They must be the judges of the facts as they see them, and must necessarily act thereon on the moment. Without entering, therefore, upon a review of the evidence of the various witnesses in the case as to the act or intent of smuggling, the Secretary of the Treasury maintains that the facts disclosed were sufficient to warrant the seizure and holding of the cattle by the Collector. He cannot therefore, concede the claim put forth by the Mexican Government that the seizure was illegal under the laws in force in the United States. "If, therefore," Mr. Gage adds, "the question as to the alleged violation of Mexican territory is eliminated, I regard the case solely as one affecting the administration of the customs laws within the district of El Paso, and, as that is purely a question of internal administration as to which ample remedies are provided in the United States Courts, I fail to see the wisdom of submitting the same to arbitration. I cannot therefore, concur in the proposal of the Mexican Government having that object in view."

In this view of the Secretary of the Treasury this Department concurs.

Accept, etc., etc., etc.

DAVID J. HILL,
Acting Secretary.

Mr. Hay to Mr. Clayton.

DEPARTMENT OF STATE,
WASHINGTON, *November 15, 1899*

His Excellency,

POWELL CLAYTON, *etc, etc, etc, Mexico.*

SIR:

Under date of May 4th last, Mr. McCreery, then Charge d'Affaires ad interim, addressed to me a despatch No. 139 in further regard to the pending negotiations between the Governments of the United States and Mexico touching the elimination of the bancos in the Rio Grande which question has been under consideration for several years past.

The reply of Senor Mariscal, under date of May 1, 1899, appears to remove all difficulty in the way of a final adjustment of this matter. The principles stated by him are entirely in accord with the views reached by the International Water Boundary Commission and with those here entertained.

Senor Mariscal makes the very practical suggestion that the original recommendations of the International Water Boundary Commission and the draft treaty which was submitted by my predecessor, Mr. Olney, to the representative of Mexico in Washington, February 29, 1896, are open to objection in that abstract terms and generic definitions are used in respect to the bancos to be eliminated as proposed. In this opinion I concur and have pleasure in acquiescing in his suggestion that the agreement to be reached between the two countries shall continue some clear and exact reference to the topography, with designation of the bancos to be eliminated and with reference to the articles of prior treaties which are in conflict with the principles of such elimination. His further suggestion that the International Water Boundary Commission be extended for a reasonable period is also acceptable.

I have accordingly the pleasure to communicate herewith a new draft of a convention between the United States and Mexico to accomplish the desired elimination of the bancos in question. While founded upon the draft submitted by Mr. Olney in 1896 it aims to meet the practical suggestions of Senor Mariscal. It will be observed that the designation of each and every one of the fifty-eight bancos now to be eliminated is accomplished by reference to the index maps which have been prepared by the International Water Boundary Commission, upon which maps the bancos are delineated and numbered in consecutive order.

Further explanation in regard to the provisions of this draft convention will be found in the letter addressed to me by General Anson Mills, under date of June 5th last, of which copy is enclosed for your information and such use by way of explanation as you may deem necessary in your conferences on the subject with Senor Mariscal. I also send two copies of the index map referred to in the draft convention.

You will say to Senor Mariscal that the delay in reaching a conclusion as to the precise text to be submitted for the consideration of the Mexican government is regretted, but it is hoped that this delay will interpose no obstacle to a speedy conclusion to this negotiation inasmuch as the embodied result is substantially in accord with the conclusions of the International Boundary Commission and with the views expressed by Senor Mariscal himself.

You may suggest also to the Minister that, in view of the importance of the question to be settled by this convention and of the large part which the International Water Boundary Commissioners have played in bringing about this result, the Government of the United States would be pleased to have the convention signed by two plenipotentiaries on each side, naming on behalf of the United States the Secretary of State and General Anson Mills and on behalf of Mexico the Mexican Ambassador at this capital and the Mexican Commissioner upon the International Water Boundary Commission.

With these explanations and suggestions the matter is entrusted to you for as early action on your part as may be possible. Should verbal changes or amendments be suggested by Senor Mariscal you will communicate with me by telegraph with a view to expediting the negotiations in order that the extension of the International Water Boundary Commission may be effected as soon as possible after the lapse of its functions on the 24th of December next.

I am, sir, etc, etc, etc,

JOHN HAY.

Enclosures:

Draft of Convention.

From General Anson Mills, International Water Boundary Commissioner, June 5, 1899.

Two copies index maps^a of the Rio Grande from San Juan river to the Gulf of Mexico.

^a[For ion of these maps, see "Elimination of Bancos," pp. 29, 30.]

[Inclosure 1.]

DRAFT OF CONVENTION.

Whereas, in order to avoid the difficulties arising in the application of the Vth Article of the Treaty of Guadalupe-Hidalgo, signed February 2, 1848, and of the first Article of the Treaty concluded December 30, 1853, between the United States of America and the United States of Mexico, in respect to those parts of the dividing line between the two countries which follow the middle of the channel of the Rio Grande and the Rio Colorado, and in order to meet the contingencies growing out of the changes of channel to which those rivers are subject through the operation of natural forces, a Convention was duly signed by the respective plenipotentiaries of the United States and of Mexico at Washington on the twelfth day of November, one thousand eight hundred and eighty-four, whereby it was stipulated in Articles I and II as follows:

I. "The dividing line shall forever be that declared in the aforesaid treaty and follow the center of the normal channel of the rivers named, notwithstanding any alteration in the banks or in the course of those rivers; provided that such alterations be affected by natural causes through the slow and gradual erosion and deposit of alluvium and not by the abandonment of an existing river bed and the opening of a new one."

II. "Any other change, wrought by the force of the current, whether by the cutting of a new bed, or when there is more than one channel by the deepening of another channel than that which marked the boundary at the time of the survey made under the aforesaid Treaty, shall produce no change in the dividing line fixed by the surveys of the International Boundary Commission in 1852, but the line then fixed shall continue to follow the middle of the original channel bed even though this should become wholly dry or obstructed by deposits."

And whereas it has been discovered by the present International (Water) Boundary Commission, established under the Convention of March 1, 1889, in its survey of the fifty-eight (58) bancos enumerated and described in the report of the Consulting Engineers, accompanying the report of the Joint Commission of June 14, 1898, in the class of changes last before described in said Convention, in Article II thereof, that there is a typical class of such changes known as Bancos, where the river, by gradual erosion and deposit, doubles upon itself and cuts through, abandoning

the old channel and forming a new one, leaving a tract of land on one side of the river, which according to the terms of said Convention, is subject to the dominion and jurisdiction of the nation on the opposite side, and that, in the after-changes in the river's bed, which are continually being made, these Bancos will often be left distant from any touch with the river's current by gradual erosion and deposit, leaving the question of accretion as between the Banco and adjacent lands which belong to the opposite nation, very difficult of solution.

Now therefore, it appearing from the efforts of the International (Water) Boundary Commission to fix and mark the boundary in the old river bed abandoned by the Rio Grande around what are known as Bancos, between its mouth in the Gulf of Mexico and the mouth of the San Juan River above Rio Grande City, Texas, that the application of the principle governing avulsive changes as laid down in said before-mentioned Article II of the Convention of November twelfth, one thousand eight hundred and eighty-four, if applied to such avulsive Banco changes as before described, would not tend to simplify and define the boundary but rather to confuse and complicate it, it is desirable to provide another method for their treatment and consideration; and the Government of the United States of America, and the Government of the United States of Mexico, have resolved to conclude a Convention which will lay down rules for the determination of such questions, and have appointed as their plenipotentiaries,—

For the United States of America, John Hay Secretary of State and Brigadier-General Anson Mills, U. S. Army, (Retired);

For the United States of Mexico.....

Who, after exhibiting their full Powers, found in good and due form, have agreed upon the following articles:

ARTICLE I.

The before-mentioned fifty-eight (58) Bancos, surveyed and described in the report of the Consulting Engineers of May 30, 1898, accompanying the report of the Commissioners in their journal of June 14th, 1898, and delineated in fifty-four separate maps recently made on a scale of one in five thousand, as explained and numbered on four index maps attached hereto duly signed by the respective Plenipotentiaries to this Convention, shall be eliminated and withdrawn from the operation of Articles I and

II of the Treaty of November twelfth, one thousand eight hundred and eighty-four; and the future boundary line between the two countries from the mouth of the Rio Grande to the San Juan River, shall be, so far as these Bancos are concerned, in the center of the deepest channel of the running water of said Rio Grande, and the dominion and jurisdiction of all said Bancos on the left bank of said running water shall be transferred to the United States, and the dominion and jurisdiction of all said Bancos on the right bank shall be transferred to the dominion and jurisdiction of Mexico.

The Joint Commission is authorized and directed to mark on these fifty-four maps before mentioned the location of the boundary line according to the principles of elimination hereby adopted, and to mark distinctly thereon the name and area of each Banco and the dominion of the country to which it is assigned; and also to erect suitable monuments to mark the jurisdiction of the old abandoned river bed surrounding each Banco with the present river's bank, and at least one stable iron monument on the outer bank of each Banco, at a convenient and conspicuous point far from the river.

ARTICLE II.

Hereafter in determining the true boundary line between the United States of America and the United States of Mexico, or any portion of the said Rio Grande or the Rio Colorado, under Articles I and II of the Treaty of November twelfth, one thousand eight hundred and eighty-four, where those streams form a part of said boundary, the International (Water) Boundary Commission shall be governed by the principles of elimination of Bancos as set forth in Article I of this treaty, save that if any Banco shall be found to contain more than two hundred and fifty (250) Hectares (about 625 acres) or a population of over two hundred (200) souls, it shall not, without further treaty stipulations, be eliminated as a Banco, but shall be treated according to Article II of the Treaty of November twelfth, one thousand eight hundred and eighty-four. And wherever the old bed of the river cannot be definitely discovered on the present river's bank a right line shall be assumed from the nearest point to the river discoverable, and on the shortest line to the river's present bank.

In order to distinguish between a typical Banco avulsion, and an ordinary avulsive change, in the future application of this

principle of elimination reference as precedents will be had to the fifty-eight (58) Bancos herein eliminated, and the case of the "Island of San Elizario," decided to be a true avulsive change.

ARTICLE III.

Mexicans now established on Bancos previously belonging to Mexico, and which remain for the future within the limits of the United States as defined by this treaty, shall be free to continue where they now reside or remove at any time to the Mexican Republic, retaining the property which they possess in said Bancos, or dispose thereof and remove the proceeds wherever they please, without being subject on this account to any contribution, tax, or charge whatever. Those who shall prefer to remain on said Bancos may either retain the title and rights of Mexican citizens or acquire those of citizens of the United States, but they shall be under the obligation to make their election by making a declaration thereof before some court of record within the United States, within one year from the date of the transfer of dominion; and those who shall remain on the said Bancos after the expiration of such year without having declared their intention to retain the character of Mexicans shall be considered to have elected to become citizens of the United States.

In the said bancos previously belonging to Mexico, property of every kind belonging to Mexicans not established there shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract, shall enjoy with respect to it guarantees equally ample as if the same belonged to the citizens of the United States.

Citizens of the United States now established on Bancos previously belonging to the United States and which remain for the future within the limits of Mexico as defined by this treaty, shall be free to continue where they now reside, or remove at any time to the United States, retaining property which they possess in said Bancos, or dispose thereof and remove the proceeds wherever they please, without being subject on this account to any contribution, tax, or charge whatever. Those who shall prefer to remain on said Bancos may either retain the title and rights of United States citizens or acquire those of citizens of Mexico, but they shall be under the obligation to make their election by making a declaration thereof before some court of record within the United States within one year from the date of the transfer of dominion; and those who shall remain on the said Bancos after the expiration of such year without having declared their intention to retain

the character of citizens of the United States shall be considered to have elected to become citizens of Mexico.

In the said Bancos previously belonging to the United States, property of every kind now belonging to citizens of the United States not established there shall be inviolably respected. The present owners, the heirs of these and all citizens of the United States who may hereafter acquire said property by contract, shall enjoy with respect to it guarantees equally ample as if the same belonged to the citizens of Mexico.

ARTICLE IV.

For the more prompt and permanent treatment of questions of boundary arising between the two nations, the treaty of March 1, 1889, and the Commission established thereunder, shall continue in force and effect indefinitely, subject, however, to the right of either contracting party to dissolve the said Commission by giving six months' notice to the other.

This Convention shall be ratified by the two High Contracting Parties in conformity with their respective Constitutions, and the ratifications shall be exchanged in Washington as soon as possible.

In Testimony Whereof, we, the undersigned, by virtue of our respective powers, have signed this convention in duplicate, in the English and Spanish language, and have affixed our respective seals:

Done in the City of Washington, on the —— day of —— of the year one thousand eight hundred and ninety nine.

[Inclosure 2.]

General Mills to Mr. Hay.

DEPARTMENT OF STATE.

INTERNATIONAL (WATER) BOUNDARY COMMISSION

UNITED STATES AND MEXICO.

Treaties of 1884 and 1889.

EL PASO, TEXAS, *June 5th, 1899.*

To the Honorable,

The SECRETARY OF STATE,

Washington, D. C.

SIR:

I have the honor to acknowledge the receipt of your communication of May 15th, inclosing copy of a despatch from the United States Embassy in Mexico City, communicating a proposition by

the Mexican Government for the elimination of the "Bancos" on the Rio Grande, and requesting an expression of my views thereon.

In reply, I beg to say that I have carefully read the communications of Mr. McCreery, as well as the important one from Minister Mariscal, and before writing this communication, have conferred with the Mexican Commissioner, Mr. Blanco, regarding all the points raised by Minister Mariscal, in order that should there be developed a difference between us regarding them, we might more readily, in the interests of expeditious business, come to an understanding at once, rather than by probable reference through the Mexican Government to him.

We have carefully re-read the documents referred to, viz: our journals of January 15th, 1895, November 27th, 1897, and June 14th, 1898, as well as the draft of the treaty submitted by the Honorable Mr. Olney, referred to by Minister Mariscal, and we have been unable to see any necessity for changing any of the opinions or recommendations expressed therein regarding the elimination of the bancos; save that we withdraw the qualifications that Bancos having less front with the river's channel than depth at right angles from it, only be eliminated, and recommend in its stead a qualification that any Banco having more than 250 Hectares (about 625 acres) or a population of over 200 souls be not eliminated; all others to be eliminated.

Our reasons for this latter qualification are as follows: The engineers expressed the opinion, in which the Commissioners concur, that it is not beyond the range of possibility (though hardly probable) that either of the cities of Brownsville or Matamoros may in the future be cut off by a typical banco. In either case or some one similar, where a large tract of land or a large population should be expatriated, the Mexican Commission has insisted that the law might be too violent for a satisfactory and peaceful application, and while I am of the opinion that no such dilemma is at all likely to occur, I concur with him in recommending this rule of exception.

I am aware of the hazard in adopting novel international law, as there is hazard in adopting anything novel, but while it is true that it is novel, it is not so far as we are able to learn, an innovation, as, after five years study, we have been unable to find anywhere a rule or precedent that is satisfactorily applicable, or any other remedy suitable, save the principle of elimination recommended, for these very complicated cases, and that some fixed rule is imperatively necessary to apply to the unsettled state of the present

boundary, to preserve the peace and order between the citizens of the border, and these rules should be formulated and published as speedily as possible, to relieve the minds of the contestants who have been expecting some solution for the past five years.

Regarding the serious objection that Minister Mariscal discovers in the form of the documents above referred to, I beg to say that I am unskilled in the diplomatic science of framing treaties, and prefer to leave that matter to the better knowledge and experience of the State Department. I have, however, taken the liberty to embody in the draft of the treaty submitted by the Honorable Mr. Olney, referred to by Minister Mariscal, such suggestions in my own imperfect way, as will, I think, convey to the Department a general idea of the principal features required in a treaty and which a further study has given us some reason to change a few points, which were embodied in our previous reports. (See copy inclosed.)

Regarding the suggestion of Minister Mariscal, that the Commission, in view of future and continuously occurring changes in the Rio Grande, be prorogued for a prudent period, I have thought for the past several years that that should have been done, for it is evident that even the questions pending will not be all entirely settled for several years, to say nothing of those that are arising each year. I have therefore improvised an article for that purpose, which while giving the general idea, may be reduced to the form of diplomatic usage or changed to alter the better conception of your Department.

With reference to the establishment of rules relative to citizenship, property and servitude, in the Bancos in question, I thought I could do no better than to apply the corresponding article of the Treaty of Guadalupe Hidalgo, which appears to have been in satisfactory operation for the past fifty years. In that case, however, there were only Mexican citizens and dominion expatriated, and I felt a difficulty in embodying in one paragraph the two provisions for changes of both American and Mexican. The Department, however, may be able to embody it in one paragraph.

The Mexican Commissioner, Mr. Blanco, has suggested to me that it might facilitate an intelligent conclusion if the two Commissioners were present at the final adoption of the details of the treaty whether in Washington or Mexico. I concur in this suggestion as many small details might arise in which we could, from our more familiar experience, give useful information.

I arrived here on the 16th of last month to confer with the Mexican Commissioner regarding the cut-off in the bend of the river below this city, which has been accomplished by the two cities, as provided by the two governments, expecting to see the usual flood waters pass through it, and aid the engineers in case any difficulties should arise in the successful passage of the waters, but unfortunately an unprecedented state of affairs exists. I found the river perfectly dry on my arrival, and the flood waters which usually arrive about the 15th of May have totally disappeared and from all we can learn from the headwaters above in Colorado and New Mexico, there will be no water in the river this year, save that that comes from future rainfall. And this is hardly to be expected as the surface of the earth and the air is so arid now, that it will, in all probability take up the rainfall as it is precipitated.

There remains here no business for the Joint Commission other than two cases immediately below this city, where the principle of elimination is involved and can not be applied until that question is settled by the two governments, so I shall return to Washington about the 20th instant.

I have the honor to be,

Very respectfully yours,

ANSON MILLS,
Brigadier General, U. S. Army, (Retired),
Commissioner.

Mr. Clayton to Mr. Hay.

No. 414.

EMBASSY OF THE UNITED STATES,
MEXICO, November 22, 1899.

Honorable JOHN HAY,

Secretary of State, Washington, D. C.

SIR:

I have the honor to acknowledge the receipt of your instruction No. 254, of the 15th instant, with enclosures, concerning the negotiation of a new Convention between the United States and Mexico for the purpose of making certain changes in the existing water boundary between the two countries, etc.

Upon the receipt of said instruction, I immediately placed in Mr. Mariscal's hands a copy of the treaty draft and one of the maps enclosed therewith. I also informed him of the nature of my instruction, and asked that, as soon as he had studied the aforesaid draft, he would inform me when it would suit his pleasure

for me to meet him and exchange views upon the subject, and of the desire of the Department for the expedition of the business. He readily consented to my request, and expressed himself as being also desirous of bringing the matter to an early conclusion.

I have the honor to be, Sir,

Your obedient servant,

POWELL CLAYTON.

Mr. Clayton to Mr. Hay.

No. 416.

EMBASSY OF THE UNITED STATES,
MEXICO, November 23, 1899.

Honorable JOHN HAY,

Secretary of State, Washington, D. C.

SIR:

I have the honor to acknowledge the receipt of Mr. Adee's unnumbered instruction of the 17th instant, directing me to make certain corrections in the Department's instruction No. 254, of the 15th instant, and in the draft treaty of the proposed convention with Mexico for the elimination of bancos which accompanied the last-named instruction, and to say that I have made the necessary corrections, while I have this day addressed a note to Mr. Mariscal, copy enclosed, requesting him to make the same corrections in the copy of the proposed treaty which I furnished him on the 21st instant.

I have the honor to be, Sir,

Your obedient servant,

POWELL CLAYTON.

Enclosure: Mr. Clayton to Mr. Mariscal, November 23, 1899.

[Inclosure.]

Mr. Clayton to Señor Mariscal.

EMBASSY OF THE UNITED STATES,
MEXICO, November 23, 1899.

His Excellency IGNACIO MARISCAL,

Minister of Foreign Affairs.

MR. MINISTER:

I have the honor to transcribe to Your Excellency, below, an extract from an instruction which I have received from the Department of State, at Washington, under date of the 7th instant, directing me to make certain corrections in the draft treaty of the proposed convention with Mexico for the elimination of bancos:—

“On page 2, in the second paragraph, second line, after the words (Water) Boundary Commission, insert: ‘established under

the Convention of March 1, 1889.' On page 9, third line of the second paragraph, instead of the date November 12, 1884, should be the date: 'March 1, 1889.'"

I have made the required corrections in the copy of the proposed treaty sent to me by the Department of State, and as the pages of the draft furnished Your Excellency do not correspond with those sent to me by the State Department, I respectfully request that you will correct your draft as follows:—

On page 2, in the first paragraph, second line, after the words (Water) Boundary Commission, insert: "established under the Convention of March 1, 1889." On page 7, third line of the second paragraph, instead of the date November 12, 1884, should be the date: "March 1, 1889."

I renew to Your Excellency the assurances of my high consideration.

POWELL CLAYTON.

Mr. Clayton to Mr. Hay.

No. 423.

EMBASSY OF THE UNITED STATES,
MEXICO, *December 8, 1899.*

Honorable JOHN HAY;

Secretary of State, Washington, D. C.

SIR:

Referring to my dispatches Nos. 414 and 416, of the 22nd and 23rd ultimo, respectively, relating to the negotiations entrusted to me under Department's instruction No. 254, of the 15th ultimo, for a proposed new treaty between the United States and Mexico for the purpose of making certain changes in the existing water boundary between the two countries, etc., I have the honor to report that, since placing the draft in Mr. Mariscal's hands, as stated in my first mentioned despatch, I have twice verbally called the matter to his attention, and reminded him of the desire of the Department for the expedition of the negotiations. Each time he has informed me that the draft had been referred to the proper officer of his Department for a report, and that he would call for the same and inform me when he was ready to take the matter up. I am expecting daily to hear from him upon the subject.

This action upon my part is reported so that you may understand the cause of the present delay.

I have the honor to be, Sir,

Your obedient servant

POWELL CLAYTON.

Mr. Clayton to Mr. Hay.

No. 452.

EMBASSY OF THE UNITED STATES,
MEXICO, *December 26, 1899.*

Honorable JOHN HAY,
Secretary of State,
Washington, D. C.

SIR:

Referring to my dispatch No. 450, of the 23rd instant, concerning a new water-boundary convention between the United States and Mexico, I have the honor to transmit, herewith, a copy and translation of a note from Mr. Mariscal, dated the 22nd instant, informing me that certain grave constitutional questions requiring profound and long study, have arisen, which, when completed, the Foreign Office will take pleasure in opportunely communicating to this Embassy.

I have the honor to be, Sir,
Your obedient servant,

POWELL CLAYTON.

Enclosures:

1. Mr. Mariscal to Mr. Clayton, December 22, 1899.
2. Translation of No. 1.

[Inclosure 1.]

Señor Mariscal to Mr. Clayton.

SECRETARÍA DE RELACIONES EXTERIORES,
MEXICO, *Diciembre 22 de 1899.*

Señor EMBAJADOR:

Como tuve el honor de decirlo verbalmente á Vuestra Excelencia, á propósito del proyecto de tratado relativo á los *bancos* en el río Bravo, surge una cuestión constitucional grave y que exige profundo y detenido estudio: la de falta de facultades de este Gobierno para ceder porciones, por limitadas que sean, de terreno mexicano.

Ya se emprende por parte de esta Secretaría el indicado estudio, de cuyo resultado me será grato imponer oportunamente á esa Embajada.

Renuevo á Vuestra Excelencia, con este motivo, las seguridades de mi alta consideración.

IGNO. MARISCAL.

A Su Excelencia POWELL CLAYTON,
Embajador Extraordinario y Plenipotenciario
de los Estados Unidos de América.

[Inclosure 2.]

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,
MEXICO, *December 22, 1899.*

Mr. AMBASSADOR:

As I had the honor to say verbally to Your Excellency, in regard to the project of a treaty in the matter of the *bancos* of the river Bravo, there arises a grave constitutional question which requires profound and long study: that of the lack of power on the part of this government to cede portions, limited although they may be, of the Mexican territory.

This Department will take up this study, the result of which I will take pleasure in opportunely communicating to your Embassy.

I renew etc.

IGNO. MARISCAL.

His Excellency POWELL CLAYTON,
etc. etc. etc.

Mr. Hay to Mr. Clayton.

No. 271

DEPARTMENT OF STATE,
WASHINGTON, *December 26, 1899.*

His Excellency
POWELL CLAYTON,
etc, etc, etc, Mexico.

SIR:

I have to inform you that on the 22nd instant I signed with the Mexican Ambassador at this Capital, a convention extending for a period of one year from December 24, 1899, the provisions of the Water Boundary Convention of March 1, 1889, between the United States and Mexico.

This is without prejudice to the negotiation of a treaty for the elimination of the *bancos* which is to be pressed to as early a conclusion as possible.

I am, sir, etc, etc, etc,

JOHN HAY.

Mr. Clayton to Mr. Hay.

No. 464.

EMBASSY OF THE UNITED STATES,
MEXICO, *January 3, 1900.*

Honorable JOHN HAY,
Secretary of State,
Washington, D. C.

SIR:

I have the honor to acknowledge the receipt of your instruction No. 271, of the 26th ultimo, informing me that, on the 22nd ultimo,

a convention extending for a period of one year from December 24, 1899, the provisions of the Water Boundary Convention of March 1, 1889, between the United States and Mexico, had been signed at Washington, and that the negotiations of the treaty for the elimination of the bancos are to be pressed to as early a conclusion as possible.

I understand from this that your instruction No. 254, of November 15th last, is still in effect.

I have the honor to be, Sir,

Your obedient servant,

POWELL CLAYTON.

Señor Aspiroz to Mr. Hay.

EMBAJADA DE MÉXICO,
WASHINGTON, *Octubre 8 de 1900.*

Número 127.

EXCELENTÍSIMO SEÑOR:

Debiendo expirar el 23 de Diciembre próximo el plazo ajustado entre México y los Estados Unidos el 24 de Diciembre de 1899, de prórroga de la Convención sobre límites fluviales que creó la Comisión Internacional de Límites, mi Gobierno me ha dado instrucciones para proponer a usted que se celebre una nueva Convención entre los dos países que sustituya a la concluida en 1º. de Marzo de 1899, y que tenga el carácter de permanente, o cuando menos, que se estipule en ella un plazo más largo para su duración.

Como este pacto internacional, si llega a concluirse, deberá sujetarse a la aprobación del Senado Mexicano antes del 15 de Diciembre en que cerrará su actual período de sesiones, para que pueda ponerse en ejecución al terminar el Convenio vigente, mi Gobierno me encarece la urgencia de ultimarlos cuanto antes.

Suplico a usted por lo mismo, se sirva comunicarme si el Gobierno de los Estados Unidos estaría dispuesto a celebrar la nueva Convención en los términos indicados, para que en ese caso convengamos en las estipulaciones del pacto, a cuyo fin tendré el gusto de conferenciar con usted respecto de ellas cuando le fuere conveniente.

Sírvase usted aceptar, Señor Secretario, las seguridades de mi más alta consideración.

M. DE ASPÍROZ.

A Su Excelencia

JOHN HAY,

etc., etc., etc.

[Translation.]

Number 127.

MEXICAN EMBASSY,
WASHINGTON, *October 8, 1900.*

MOST EXCELLENT SIR:

The term fixed between Mexico and the United States on December 24, 1899 of the prorogation of the Convention in regard to the fluvial boundaries that the International Commission of Boundaries created having to expire on December 23 next, my Government has given me instructions to propose to you that a new Convention be concluded between the two countries which may be substituted for the one concluded on March 10, 1889, and which may have the character of permanency, or at least, that a longer term for its duration may be stipulated in it.

As this international agreement, if it comes to be concluded, must be submitted to the approval of the Mexican Senate before December 15, in which its present period of sessions will close, in order that it may be placed in execution at the termination of the Convention in force, my Government recommends the urgency of concluding it as soon as possible.

I beg you, for the same, be pleased to communicate to me whether the Government of the United States would be disposed to conclude the new Convention in the terms indicated, in order that in that case we may agree on the stipulations of the compact, for this end, I shall have the pleasure of consulting together with you with regard to them whenever it shall be convenient.

Be pleased to accept, Mr. Secretary, the assurances of my highest consideration.

M. DE ASPIROZ.

To His Excellency

JOHN HAY, *etc. etc. etc.**Mr. Hay to Señor Aspíroz.*DEPARTMENT OF STATE,
WASHINGTON, *October 31, 1900.*

His Excellency

Senor Don MANUEL DE ASPIROZ,
etc., etc., etc.

EXCELLENCY:

I have the honor to acknowledge the receipt of your note of the 8th instant, in which, after referring to the fact that the term

fixed between the United States and Mexico on December 24 last for the extension of the Water Boundary Convention of March 1, 1889, will expire on the 23rd of the coming December, you propose, on behalf of your Government, that a new convention be concluded between the two countries to supersede that of March 1, 1889, and which shall be of a permanent character, or at least shall stipulate a longer term than one year for its duration.

This Government understands that that of Mexico is not ready to give its decision in the matter of the proposed treaty for the elimination of the bancos; that the question of the equitable distribution of the waters of the Rio Grande is still before the International Boundary Commission, and that the important case known as the "Chamizal case" remains undecided. Even if no new cases arise, it would seem that there will be a necessity for a Commission between the two countries for some years to come.

This Government is, therefore, willing to enter into a convention continuing the said Convention of March 1, 1889, and the Commission established thereunder indefinitely, subject to the right of either contracting party to dissolve the Commission by giving the six months' notice to the other.

I enclose a draft of such convention. If it shall meet with the approval of your Government, I shall be pleased to have it prepared for signature upon the receipt from you of the Spanish text.

Accept, Excellency, etc., etc., etc.

JOHN HAY.

Enclosure as above.^a

Señor Aspíroz to Mr. Hay.

Num. 153.

EMBAJADA DE MÉXICO,
WASHINGTON, *Noviembre 15 de 1900.*

EXCELENTÍSIMO SEÑOR:

He tenido la honra de recibir la nota número 127, del 31 de Octubre último, con la que me remitió usted un proyecto en inglés de una nueva Convención sobre límites fluviales entre México y los Estados Unidos que tendrá el carácter de permanente.

Estoy dispuesto a firmar la nueva Convención en los términos expresados en dicho proyecto, para lo cual remito a usted adjunto el texto en castellano que se sirvió pedirme.

^a[Inclosure omitted. For text of this convention as ratified by the two Governments, see *supra*, p. 85.—Agent's note.]

Suplico a usted tenga a bien indicarme el día y hora en que podremos firmar dicho tratado, y aceptar las seguridades reiteradas de mi más alta consideración.

M. DE AZPÍROZ.

A Su Excelencia

JOHN HAY,

etc., etc., etc.

[Inclosure.]

Deseando los Estados Unidos Mexicanos y los Estados Unidos de América dar entero cumplimiento á las estipulaciones de la Convención concluida y firmada en Washington el 1.º de Marzo de 1889, para facilitar la ejecución de los principios contenidos en el Tratado firmado por las dos Altas Partes Contratantes el 12 de Noviembre de 1884, y evitar las dificultades ocasionadas por los cambios en los cauces de los ríos Bravo del Norte y Colorado, en las partes que sirven de límite á las dos Repúblicas;

Y debiendo expirar el 24 de Diciembre de 1900 el plazo fijado en el artículo IX de la Convención de 1.º de Marzo de 1889, ampliado por las Convenciones de 1.º de Octubre de 1895, 6 de Noviembre de 1896, 29 de Octubre de 1897, 2 de Diciembre de 1898 y 22 de Diciembre de 1899;

Y considerando conveniente las dos Altas Partes Contratantes prorrogar indefinidamente el plazo estipulado en el artículo IX de la Convención de 1.º de Marzo de 1889, y en el artículo único de las de 1.º de Octubre de 1895, 6 de Noviembre de 1896, 29 de Octubre de 1897, 2 de Diciembre de 1898 y 22 de Diciembre de 1899, á fin de que la Comisión Internacional de límites pueda continuar examinando y decidiendo los casos á ella sometidos, han nombrado con tal objeto sus respectivos Plenipotenciarios, á saber:

El Presidente de los Estados Unidos Mexicanos á Manuel de Azpíroz, Embajador Extraordinario y Plenipotenciario de los Estados Unidos Mexicanos en Washington; y

El Presidente de los Estados Unidos de América á John Hay, Secretario de Estado de los Estados Unidos de América;

Quienes, después de haberse comunicado sus respectivos plenos poderes, encontrándolos en buena y debida forma, han acordado y concluido el artículo siguiente:

ARTICULO UNICO.

Dicha Convención del 1.º de Marzo de 1889, en los términos que ha sido prorrogada en las diferentes fechas arriba referidas, y la

Comisión creada por ella subsistirán y tendrán efecto indefinidamente, sin perjuicio del derecho de cada una de las Partes Contratantes para disolver la Comisión dando aviso á la otra Parte con una anticipación de seis meses, y sin que esa disolución de la Comisión impida á los dos Gobiernos convenir más tarde en renovar dicha Comisión, ó reconstituirla de acuerdo con las prevenciones de la Convención citada; y la misma Convención de 1.º de Marzo de 1889, prorrogada por la presente, podrá cesar doce meses después de que una de las dos partes contratantes haya comunicado en debida forma á la otra parte, el deseo de ponerle término.

Esta Convención será ratificada por las dos Altas Partes Contratantes, de acuerdo con sus respectivas Constituciones, y las ratificaciones se canjearán en Washington tan pronto como sea posible.

En fé de lo cual, los infrascritos, en virtud de nuestros respectivos plenos poderes, hemos firmado esta Convención, por duplicado en las lenguas española é inglesa, y los hemos puesto nuestros respectivos sellos.

Hecho en la ciudad de Washington, el día de Noviembre de mil novecientos.

[Translation.]

No. 153.

MEXICAN EMBASSY,
WASHINGTON, *Nov. 15, 1900.*

ESTEEMED SIR:

I have had the honor to receive your note, No. 127, of October 31st last, with which you transmitted a draft in English of a new Water Boundary Convention which shall be permanent in character.

I am ready to sign the new convention in the terms set forth in the said draft; therefore I enclose herewith the text^a in Spanish which you were pleased to request of me.

I beg you to be good enough to inform me of the day and hour when we shall sign the aforesaid treaty, and to accept the renewed assurances of my highest consideration.

M. DE AZPIROZ.

To His Excellency,
JOHN HAY,
etc. etc. etc.

^a [Inclosures omitted. For text of Treaty as ratified by two countries see *supra*, p. 82.—Agent's note.]

Mr. Hay to Señor Azpiroz.

DEPARTMENT OF STATE,
WASHINGTON, November 20, 1900.

His Excellency

Senor Don MANUEL DE AZPIROZ,

etc., etc., etc.

EXCELLENCY:

I have the honor to acknowledge the receipt of your note No. 153, of the 15th instant, furnishing the Spanish text of the draft of a Convention submitted with my note No. 127, of the 31st ultimo, continuing in force and effect for an indefinite period the Water Boundary convention of March 1, 1889, and the Commission established thereunder.

I have had the two texts prepared for signature, and beg to enclose for your inspection the United States and Mexican copies of the Convention. If found correct, I shall be pleased to sign the Convention with you to-morrow morning at eleven o'clock, if you can find it convenient to call at that hour.

Accept, Excellency, *etc., etc., etc.*

JOHN HAY.

Enclosures as above.^a

Mr. Hay to Señor Azpiroz.

No. 142.

DEPARTMENT OF STATE,
WASHINGTON, December 21, 1900.

His Excellency

Senor Don MANUEL DE AZPIROZ,

etc., etc., etc.

EXCELLENCY:

I have the honor to inform you that the Senate by its resolution of December 15, 1900, has given its advise and consent to the treaty which I signed with you on the 21st ultimo, extending for an indefinite period the duration of the Convention of March 1, 1889, and the Commission established thereunder.

I am ready, therefore, to effect with you the exchange of ratifications and await your pleasure in the matter.

Accept, Excellency, *etc., etc., etc.,*

JOHN HAY.

^a [Inclosures omitted. For text of this convention see *supra*, p. 82.—Agent's note.]

Señor Azpiroz to Mr. Hay.

Número 158.

EMBAJADA DE MÉXICO,
WASHINGTON, *Diciembre 22 de 1900.*

EXCELENTÍSIMO SEÑOR:

Enterado hoy por la nota de usted, fechada ayer, de que el Senado aprobó la Convención que firmamos el día 21 de Noviembre último para prorrogar por tiempo indefinido la del 1º de Marzo de 1889 sobre límites fluviales entre nuestras dos Repúblicas, é invitado por usted para canjear sus ratificaciones, tengo la honra de manifestar a usted que el Senado de los Estados Unidos Mexicanos aprobó también la expresada Convención, y que estoy dispuesto a hacer el canje tan pronto como usted se sirva señalar el día y la hora en que hayamos de celebrar el acto referido.

Acepte usted, Excelentísimo Señor, la reiterada protesta de mi muy alta consideración.

M. DE AZPIROZ.

A Su Excelencia JOHN HAY,
etc., etc., etc.

[Translation.]

No. 158.

MEXICAN EMBASSY,
WASHINGTON, *December 22, 1900.*

ESTEEMED SIR:

Advised today, by your note, dated yesterday, that the Senate approved the Convention which we signed on November 21 last to extend for an indefinite period the Water Boundary Convention of March 1, 1889, between the two Republics, and, being invited by you to effect the exchange of ratifications, I have the honor to state to you that the Senate of the United Mexican States has also approved the aforesaid Convention, and that I am ready to effect the exchange as soon as you may be pleased to indicate the day and hour when we shall do so.

Accept, Your Excellency, the reiterated assurance of my very high consideration.

M. DE AZPIROZ.

To His Excellency
JOHN HAY,
etc. etc.

Mr. Hay to Mr. Clayton.

No. 1192.

DEPARTMENT OF STATE,
WASHINGTON, *December 1, 1904.*His Excellency POWELL CLAYTON,
etc, etc, etc.

SIR:

The Department desires you to bring to the attention of the Mexican Minister of Foreign Relations the grave importance of some early action on the question of the elimination from a strict construction of the treaties of 1884 and 1889 as to the sovereignty of the fifty-eight bancos surveyed by the International (Water) Boundary Commission and described in the Commission's report of February 15, 1895, and subsequent correspondence, and made the subject of a treaty suggested by Minister Romero and Secretary Olney, which treaty was subsequently amended to meet the suggestions made by Mr. Mariscal in his note to Mr. McCreery of May 1, 1899. See pages 265-267 of the report of the International (Water) Boundary Commission, a copy of which is sent to you herewith, under a separate cover.

You will urge upon Mr. Mariscal that this new treaty be signed and accomplished as promptly as possible, eliminating these bancos, or that the commission be instructed to demark the boundary under a strict construction of the old treaties.

The importance of early action as suggested above arises from the fact that the efforts of the Boundary Commission in this part of its work, entailing, as they do, much expense on the part of both Governments, have for six years produced no benefits to either country; and that these bancos have been without sovereignty, leaving them in fact no-man's land, thereby causing much confusion to the officials of both governments in the execution of the criminal laws, and to individuals of both countries in the matter of their property rights. Furthermore, the extensive work done by the engineers of the Commission in demarking the bancos is disappearing so fast, by reason of the destructive action of the river, that, in the near future, an entirely new survey will have to be made. There is also to be taken into account the still further important fact that while the question of elimination has been taken from the jurisdiction of the Commission many new applications have been made to it by citizens of both countries for surveys of additional—bancos, which the commission does not feel authorized to take up until it has been informed as to some action on the present proposed treaty.

Regarding the grave constitutional question suggested in Mr. Mariscal's note to you of December 22, 1899, the Department is of the opinion that you might suggest that as the sovereignty of the bancos in question proposed to be eliminated is in dispute it could hardly be construed as a ceding of Mexican territory, but rather the fixing of the boundary separating territory, the sovereignty of which is questionable, which is a power understood to be assumed by nations in similar questions, and one which is generally referred for adjudication to commissions like the one now having the question under consideration and only requiring the approval of the treaty-making powers of the countries involved to make its results effective and binding upon both the contracting parties.

I am, sir, etc, etc, etc,

JOHN HAY.

Accompaniments:

"Proceedings of the International (Water) Boundary Commission, United States and Mexico, Treaties of 1884 and 1889," dated September 1, 1903.

Mr. Clayton to Mr. Hay.

No. 2574. EMBASSY OF THE UNITED STATES OF AMERICA.

MEXICO, *December 13, 1904.*

Honorable JOHN HAY,

Secretary of State,

Washington, D. C.

SIR:

I have the honor to acknowledge receipt of your instruction No. 1192 of the 1st instant, relative to the adoption of a new treaty, by which the fifty-eight bancos surveyed by the International (Water) Boundary Commission may be eliminated.

I also have the honor to acknowledge the receipt of the report of the International (Water) Boundary Commission, sent this Embassy by the Department under separate cover.

I have addressed a note to Mr. Mariscal today, copy enclosed, upon the subject, in which I have substantially adopted as my own, the language of your instruction, as, certainly it will better convey your views than any language of my own I might use.

I have the honor to be, sir,

Your obedient servant,

POWELL CLAYTON.

g. Enclosure: Mr. Clayton to Mr. Mariscal Dec. 13, 1904.

[Inclosure.]

Mr. Clayton to Señor Mariscal.

EMBASSY OF THE UNITED STATES,
MEXICO, *December 13, 1904.*

His Excellency,

IGNACIO MARISCAL,

Minister for Foreign Affairs.

Mr. MINISTER:

Pursuant to instructions from the Department of State, at Washington, I have the honor to bring to the attention of Your Excellency, the grave importance of some early action on the question of the elimination from a strict construction of the treaties of 1884 and 1889 as to the sovereignty of the fifty-eight bancos surveyed by the International (Water) Boundary Commission and described in the Commission's report of January 15, 1895, and subsequent correspondence, and made the subject of a treaty suggested by Minister Romero and Secretary Olney, which treaty was subsequently amended to meet the suggestion made by Your Excellency in your note to Mr. McCreery of May 1, 1899. See pages 265-267 of the report of the International (Water) Boundary Commission, a copy of which was transmitted to Your Excellency with Mr. McCreery's note of the 28th of April, 1899.

I respectfully urge upon Your Excellency, that this new treaty be signed and accomplished as promptly as possible, eliminating these bancos, or that the Commission be instructed to demark the boundary under a strict construction of the old treaties.

The importance of early action as suggested above arises from the fact that the efforts of the Boundary Commission in this part of its work, entailing, as they do, much expense on the part of both Governments, have for six years produced no benefits to either country; and that these bancos have been without sovereignty, leaving them in fact no man's-land, thereby causing much confusion to the officials of both Governments in the execution of the criminal laws, and to individuals of both countries in the matter of their property rights. Furthermore, the extensive work done by the engineers of the commission in demarking the bancos is disappearing so fast, by reason of the destructive action of the river, that, in the near future, an entirely new survey will have to be made. There is also to be taken into account, the still further important fact that while the question of elimination has been taken from the jurisdiction of the Commission many new applica-

tions have been made to it by citizens of both countries for surveys of additional bancos, which the Commission does not feel authorized to take up until it has been informed as to some action on the present proposed treaty.

Regarding the grave constitutional question suggested in Your Excellency's note to me of December 22nd, 1899, I respectfully suggest that as the sovereignty of the bancos in question proposed to be eliminated is in dispute it could hardly be construed as a ceding of Mexican territory, but rather the fixing of the boundary separating territory, the sovereignty of which is questionable, which is a power understood to be assumed by nations in similar questions, and one which is generally referred for adjudication to commissions like the one now having the question under consideration and only requiring the approval of the treaty-making powers of the countries involved to make its results effective and binding upon both the contracting parties.

I renew to Your Excellency the assurance of my high consideration.

POWELL CLAYTON.

Señor Aspíroz to Mr. Hay.

No. 105.

EMBAJADA DE MÉXICO EN LOS
ESTADOS UNIDOS DE AMÉRICA,
WASHINGTON 8 de febrero de 1905.

EXCELENTÍSIMO SEÑOR:

Por especiales instrucciones de mi Gobierno tengo la honra de remitir á usted, anexos, copia de una comunicación de la Secretaría de Relaciones exteriores de México y copia de un proyecto de tratado con el Gobierno de los Estados Unidos, para el definitivo arreglo de la eliminación de los bancos en el río Bravo. Con dicho proyecto he recibido el pleno poder para negociar y firmar el tratado.

Me es grato, en consecuencia, manifestar á usted que quedo á sus órdenes para entrar en las negociaciones respectivas, si no hubiere inconveniente por parte de ese Departamento.

Acepte V. E. las reiteradas seguridades de mi más alta consideración.

M. DE ASPÍROZ.

A Su Excelencia

JOHN HAY,

etc., etc., etc.

Anexos: los arriba mencionados.

[Inclosure.]

[Copy.]

Señor Mariscal to Señor Aspiroz.

EMBAJADA DE MÉXICO EN LOS
ESTADOS UNIDOS DE AMÉRICA,
MÉXICO 2 de febrero 1905.

SECRETARÍA DE RELACIONES EXTERIORES.

Con referencia á la correspondencia que anteriormente se ha cambiado entre este Gobierno y el de los Estados Unidos de América, relativa á la eliminación de los 58 bancos medidos y descritos por la Comisión Internacional de Límites, remito á usted el proyecto por parte de México de la Convención para la eliminación de dichos bancos, así como la credencial respectiva como Plenipotenciario por parte de México.

Creo que ese Gobierno no hará objeción alguna al proyecto, por estar contenidas en él las ideas que se encuentran en los que él ha remitido con anterioridad.

Remito á usted también copia del informe que sobre el asunto presentó el Ingeniero Consultor de esta Secretaría por ser un resumen completo de todo lo que se ha tramitado en este caso.

En el archivo de esa Embajada deben existir todos los datos relativos, pero si faltan á usted algunos que sean necesarios para formarse una idea clara sobre él, puede pedirlos á esta Secretaría para que en el acto le sean remitidos.

Recomiendo á usted dé los pasos necesarios á fin de que esta Convención se firme á la mayor brevedad posible.

Reitero á usted mi distinguida consideración.

MARISCAL.

Señor EMBAJADOR DE MÉXICO,
Washington, D. C.

[Translation.]

No. 105.

EMBASSY OF MEXICO
TO THE UNITED STATES OF AMERICA
WASHINGTON, *February 8, 1905.*

MOST EXCELLENT SIR,

Under special instructions of my Government I have the honor to forward herewith to you a copy of a communication from the Department of Foreign Relations of Mexico and a copy of the draft of a treaty with the Government of the United States for the final settlement of the elimination of the bancos of the Rio

Grande. With the said draft I have received full powers to negotiate and sign the treaty.

It affords me pleasure, in consequence, to inform you that I am at your command ready to enter upon the negotiations in the absence of any objection on the part of your Department.

Accept, Excellency, the renewed assurances of my highest consideration.

M. DE AZPIROZ.

To His Excellency JOHN HAY
&c. &c. &c.

Enclosures: As above.

[Inclosure.]

[Translation.]

DEPARTMENT OF FOREIGN RELATIONS.

MEXICO, *Feb. 2, 1905.*

Referring to the correspondence which has been heretofore exchanged between this Government and that of the United States of America, relative to the elimination of the fifty-eight bancos measured and described by the International Boundary Commission, I hereby remit to you Mexico's draft^a of the convention for the elimination of said bancos, together with your credentials as Plenipotentiary for Mexico.

I do not believe that the United States Government will raise any objection to the draft, for the reason that it contains the same ideas which are embodied in the drafts which that Government had remitted previously.

I also remit to you a copy of the report presented on the subject by the consulting engineer of this Department, because it is a complete résumé of all the steps which have been taken in this case.

All the data relative to the case should be on file in your Embassy, but if you lack any which are necessary in order to form a clear idea on the subject, you may apply for them to this Department and they will be sent forthwith.

I recommend to you to take the necessary steps in order that this convention may be signed as soon as possible.

I reiterate to you my distinguished consideration.

MARISCAL.

The AMBASSADOR OF MEXICO,
Washington, D. C.

^a [Inclosure omitted. For text of this convention as ratified by the two Governments, see *supra*, p. 85.—Agent's note.]

Mr. 1

No. 564.

DEPARTMENT OF STATE,
WASHINGTON, February 15, 1905.

His Excellency

Señor DON MANUEL DE AZPIROZ,
etc., etc., etc.

EXCELLENCY:

Attentive consideration has been with your note of the 8th instant, nation of certain bancos from the Treaty of November 12, 1884, too between the United States and M found acceptable.

One change, however, seems desirable. The last five lines of Article I of the draft read as follows:

"y el dominio y jurisdicción de los c	bo
(58) bancos que están en la margen de	á
Mexico, y el dominio y jurisdicción de los	en
izquierda pasarán á los Estados Unidos d	

With a view to accuracy and greater ed the words "de aquellos" be inserted between the words "jurisdicción" and "de los citados" in the first line of the quotation.

I have the honor to enclose herewith the English text of the proposed Convention; and upon hearing from you that it is satisfactory, I shall be pleased to direct the engrossment of the two texts for signature.

Accept, etc., etc., etc.,

JOHN HAY

* Enclosure: English text of Convention as above.

Señor Aspiroz to Mr. Hay.

No. 109.

EMBAJADA DE MÉXICO EN LOS
ESTADOS UNIDOS DE AMÉRICA,
WASHINGTON: 21 de febrero de 1905.

EXCELENTÍSIMO SEÑOR:

Tengo la honra de manifestar a usted en respuesta a su nota número 564 del 15 de los corrientes, con la que recibí anexo el texto en idioma inglés de la Convención en proyecto entre México y los Estados Unidos de América para la eliminación de los

* [Inclosure omitted. For text of this convention as ratified by the two Governments, see supra, p. 85.—Agent's note.]

Bancos del río Bravo, y en la que se sirve usted proponer, para la mayor exactitud y claridad de la misma, un cambio en la redacción de las últimas cinco líneas del artículo I; que a mi vez me permito enviar a usted en seguida los términos en que a mi juicio deberán quedar concebidas aquellas líneas, tanto en inglés como en español:

“* * * y el dominio y jurisdicción de aquéllos de los citados cincuenta y ocho (58) bancos que queden en la margen derecha del río, pasarán a México; y el dominio y jurisdicción de aquellos de los citados cincuenta y ocho (58) bancos que queden en la margen izquierda, pasarán a los Estados Unidos de América * * *.”

“* * * and the dominion and jurisdiction of so many of the aforesaid 58 bancos as may remain on the right bank of the river shall pass to Mexico, and the dominion and jurisdiction of those of the said 58 bancos which may remain on the left bank shall pass to the United States of America * * *.”

En cuanto al resto, me es grato decir a usted que lo encuentro del todo satisfactorio, por lo cual, si mi propuesta arriba consignada merece la aprobación de ese Departamento, sólo me restará avisar a usted cuándo estaré a su disposición para firmar el tratado, lo cual depende de que la Secretaría de Relaciones exteriores me envíe los planos a que el mismo se refiere y que tengo ya solicitados.

Acepte V. E. las reiteradas seguridades de mi más alta consideración.

M. DE ASPÍROZ.

A Su Excelencia
JOHN HAY,
etc., etc., etc.

[Translation.]

No. 109. EMBASSY OF MEXICO IN THE UNITED STATES,
WASHINGTON, *February 21, 1905.*

EXCELLENCY:

I have the honor to acknowledge the receipt of your note No. 564, of the 15th instant, with which was transmitted the text, in English, of the proposed Convention between Mexico and the United States of America for the elimination of the “bancos” of the Rio Grande, and in which you were pleased to propose, for the greater accuracy and clearness of the same, a change in the wording of the last five lines of Article I. I, in turn, take pleasure in

forwarding herewith the terms in which, in my judgment, these lines should be cast, both in English and Spanish:

“* * * y el domino y jurisdicción de aquellos de los citados cincuenta y ocho (58) bancos que queden en la margen derecha del río, pasarán á Mexico; y el dominio y jurisdicción de aquellos de los citados cincuenta y ocho (58) bancos que queden en la margen izquierda, pasarán á los Estados Unidos de América. * * *”

“* * * and the dominion and jurisdiction of so many of the aforesaid 58 bancos as may remain on the right bank of the river shall pass to Mexico, and the dominion and jurisdiction of those of the said 58 bancos which may remain on the left bank shall pass to the United States of America. * * *”

As for the balance, I take pleasure in advising you that it is entirely satisfactory, should my proposal above stated merit the approval of your Department. It will only remain for me, in that case, to inform you when I shall be at your disposal for the signature of the treaty, which will depend on the arrival, from the Ministry of Foreign Relations, of the maps to which it refers and which I have already asked for.

Accept, etc.

M. DE ASPÍROZ.

His Excellency

JOHN HAY,
etc., etc., etc.

Señor Aspiroz to Mr. Hay.

No. 121.

EMBAJADA DE MÉXICO EN LOS
ESTADOS UNIDOS DE AMÉRICA,
WASHINGTON, 2 de marzo de 1905.

EXCELENTÍSIMO SEÑOR:

Con referencia a mi nota número 109 del 21 de febrero relativa a la convención pendiente entre México y los Estados Unidos para la eliminación de bancos en el río Bravo, tengo la honra de participar a usted que habiéndome llegado ayer los planos que solicité de mi Gobierno, estoy ya en disposición de firmar la convención dicha, en la fecha que usted se sirva determinar para ese efecto.

Acepte V. E. las reiteradas seguridades de mi más alta consideración.

M. DE ASPÍROZ.

A Su Excelencia

JOHN HAY,
etc., etc., etc

[Translation.]

No 121.

EMBASSY OF MEXICO,
WASHINGTON, *March 2, 1905.*

MOST EXCELLENT SIR:

Referring to my note, number 109 of February 21 relative to the convention pending between Mexico and the United States for the elimination of bancos in the river Bravo, I have the honor to communicate to you that the maps^a which I asked from my Government having reached me yesterday, I am now in condition to sign the said convention, on the date that you may be pleased to fix for this effect.

Accept, Your Excellency the renewed assurances of my highest consideration.

M. DE AZPIROZ

To His Excellency
JOHN HAY,
etc., etc., etc.,

Mr. Adeo to Señor Azpiroz.

DEPARTMENT OF STATE,
WASHINGTON, *March 15, 1905.*

His Excellency Señor Don MANUEL DE AZPIROZ,
etc., etc., etc.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 2nd instant advising me that you have received from your Government the maps referred to in Article I of the proposed Convention for the elimination of certain bancos from the effects of Article II of the treaty of November 12, 1884, and that you are prepared to sign the Convention.

If it is your desire that the maps should be compared with those in the possession of this Department, the Chief of the Diplomatic Bureau and the Librarian of the Department will be glad to make a comparison with any one whom you may designate for the purpose.

I beg to enclose herewith a galley proof of the proposed Convention which I shall be pleased to have you examine and return to me. If you shall find it correct, the Convention will at once be printed for signature.

^a [For reproduction of one of these maps showing the signatures of the plenipotentiaries see Portfolio Map No. 8.—Agent's note.]

The print sent herewith is for the United States original. In printing the Mexican original, the *alternat* will, of course, be observed.

Accept, etc., etc., etc.,

ALVEY A. ADER,
Acting Secretary.

Enclosure: Galley proof of convention.^a

Señor Aspíroz to Mr. Hay.

Núm. 135.

EMBAJADA DE MÉXICO EN LOS
ESTADOS UNIDOS DE AMÉRICA,
WASHINGTON: 16 de marzo de 1905.

EXCELENTÍSIMO SEÑOR:

Con la nota de ese Departamento núm. 1251 del día de ayer, tuve la honra de recibir la prueba de imprenta de la Convención pendiente entre el Gobierno de México y el de los Estados Unidos de América para la eliminación de algunos bancos en el río Bravo.

Me es grato devolver á usted en respuesta, con las correcciones necesarias, la referida prueba; quedando impuesto de qué cuando se imprima el original que á México pertenezca se observará la alternación de estilo.

Comunico á usted al propio tiempo que para el cotejo de los mapas respectivos, he designado al Agregado Militar á esta Embajada, Teniente-Coronel de Ingenieros Don Ignacio Altamira, quien el día de mañana se presentará en ese Departamento á fin de que si por parte de éste no hubiere inconveniente, proceda desde luego á dicho cotejo en unión del Jefe de la oficina diplomática y el Bibliotecario del Departamento, designados por usted, según se sirve usted comunicármelo, para el propio objeto.

Acepte V. E. las reiteradas seguridades de mi más alta consideración

M. DE ASPÍROZ.

A Su Excelencia

JOHN HAY,

etc., etc., etc.

Anexo: el mencionado arriba.^a

^a [Inclosure omitted. For text of convention as ratified by the two Governments see supra, p. 85.—Agent's note.]

[Translation.]

MEXICAN EMBASSY,
WASHINGTON, *March 16, 1905.*

Number 135.

MOST EXCELLENT SIR:

With the note of your Department number 1251 of yesterday, I had the honor to receive the printer's proof of the Convention pending between the Government of Mexico and that of the United States of America for the elimination of certain bancos in the river Bravo.

I am pleased to return to you in reply, with the necessary corrections, the mentioned proof; being informed that when the original is printed which belongs to Mexico the alteration of style will be observed.

I notify you at the same time that for the comparison of the respective maps, I have designated the Military Attaché to this Embassy, Lieutenant-Colonel of Engineers Mr. Ignacio Altamira, who will present himself to-morrow morning at your Department in order that if there should be no objection on your part, he may proceed at once to the said comparison together with the Chief of the diplomatic office and the Librarian of the Department, appointed by you, according as you are pleased to notify me, for the same object.

Accept, Your Excellency, the renewed assurances of my very high consideration.

M. DE AZPIROZ.

Enclosure: mentioned above.

To His Excellency

JOHN HAY,

*etc., etc., etc.,**Mr. Adeo to Señor Azpiroz.*

DEPARTMENT OF STATE,
WASHINGTON, *March 18, 1905.*

His Excellency

Señor Don MANUEL DE AZPIROZ,

etc., etc., etc.

MY DEAR MR. AMBASSADOR:

Owing to the absence of Mr. Hay, the President has empowered me to sign the Convention for the elimination of the bancos.

If you can conveniently call at the Department on Monday morning, the 20th instant, at 11 o'clock, I shall then be prepared to sign the Convention with you.

I am, my dear Mr. Azpiroz,

Very truly yours,

ALVEY A. ADEE.

Señor Gamboa to Mr. Loomis.

Núm. 177.

EMBAJADA DE MÉXICO EN LOS
ESTADOS UNIDOS DE AMÉRICA,
WASHINGTON: 2 de junio de 1905.

HONORABLE SEÑOR:

Por especiales instrucciones de mi Gobierno tengo la honra de manifestar á usted para los efectos correspondientes, que la Cámara de Senadores del Congreso de la República, en decreto fechado el 25 de mayo, aprobó la Convención celebrada en esta ciudad de Washington el 20 de marzo anterior, sobre eliminación de bancos en los ríos Bravo y Colorado.

Manifiesto á usted al propio tiempo, que el Ejecutivo de mi país está dispuesto á ratificar aquella Convención tan luego como sea aprobada por el Congreso de los Estados Unidos de América.

Sírvase usted aceptar, Honorable Señor, las reiteradas seguridades de mi muy alta consideración

F. GAMBOA,
E. de N. ad interim.

Honorable Señor FRANCIS B. LOOMIS,
etc., etc., etc.

[Translation.]

Number 177.

MEXICAN EMBASSY IN THE
UNITED STATES OF AMERICA,
WASHINGTON, June 2, 1905.

HONORABLE SIR:

By special instructions of my Government I have the honor to inform you for the corresponding effects, that the Senate of the Congress of the Republic, by decree dated May 25th, approved the Convention concluded in this city of Washington on March 20 last regarding the elimination of bars in the Rio Grande and Colorado rivers.

I will state to you at the same time that the Executive of my country is willing to ratify the aforesaid Convention as soon as it is approved by the Congress of the United States of America.

Please accept, honorable Sir, the renewed assurances of my very high consideration.

F. GAMBOA,
Chargé d'Affaires ad interim.

Honorable Mr. FRANCIS B. LOOMIS,
Etc., etc., etc.

Mr. Loomis to Señor Gamboa.

No. 610.

DEPARTMENT OF STATE,
WASHINGTON, *June 13, 1905.*

Señor Don FEDERICO GAMBOA,
etc., etc., etc.,

SIR:

I have the honor to acknowledge the receipt of your note No. 177, of the 2nd instant, by which you advise the Department that the Senate of Mexico has approved the treaty signed March 20 last, in Washington, for the elimination of bancos in the rivers Rio Grande and Colorado, and that your Government is ready for the exchange of ratifications as soon as the treaty is approved by the Congress of the United States.

In reply I have the honor to inform you that the advice and consent of the Senate of the United States to the ratification of the Convention by the President will be sought of that body upon its reassembling in December next.

Accept, Sir, etc., etc., etc.

F. B. LOOMIS
Acting Secretary.

Mr. Root to Señor Creel.

DEPARTMENT OF STATE,
WASHINGTON, *March 5, 1907.*

EXCELLENCY: I have the honor to inform you that the Senate, by its resolution of February 28, 1907, gave its advice and consent to the ratification, without amendment, of the Convention between the United States and Mexico, signed on March 20, 1905, for the elimination of the bancos in the Rio Grande from the effects of Article II of the treaty of November 12, 1884.

I shall therefore be prepared to effect with you the exchange of the ratifications of the Convention so soon as I shall be advised of the receipt by you of the Mexican ratification.

Accept, Excellency, the renewed assurances of my highest consideration.

ELIHU ROOT.

His Excellency Señor Don ENRIQUE C. CREEL,
Ambassador of Mexico.

Señor Creel to Mr. Root.

EMBAJADA DE MÉXICO,
EN LOS ESTADOS UNIDOS DE AMÉRICA,
WASHINGTON, 14 de marzo de 1907.

EXCELENTÍSIMO SEÑOR: Refiriéndome á la nota de Usted número 9, de 5 del actual, en que se sirve avisarme que ya ha sido ratificada por el Senado de este país la Convención ácerca de la eliminación de los bancos en Río Bravo, suplico á Usted, por instrucciones de mi Gobierno, que me indique si, como es de creerse, no es preciso incluir en las ratificaciones de esa Convención el protocolo posterior sobre la firma de los mapas anexos, puesto que dicho protocolo posterior completa las negociaciones pendientes para hacer efectiva y poner en vigor la expresada Convención, tan luego como se verifique el canje de las ratificaciones respectivas.

Me es grato reiterar á Usted, Excelentísimo Señor, las seguridades de mi más alta consideración.

ENRIQUE CREEL.

Á Su Excelencia ELIHU ROOT,

Secretario de Estado de los Estados Unidos de América.

[Translation.]

No. 17.]

EMBASSY OF MEXICO,
TO THE UNITED STATES OF AMERICA,
WASHINGTON, March 14, 1907.

MOST EXCELLENT SIR: Referring to your note No. 9, of the 5th instant by which you are pleased to advise me of the ratification of the Convention relative to the elimination of the Bancos of the Rio Grande, by the Senate of this country, I beg to ask, by direction of my Government, that you tell me whether it is not necessary, as it would seem to be, to include in the ratifications of that Convention the subsequent protocol bearing on the signature of the maps annexed since the said subsequent protocol complete the pending negotiations to bring into effect and put into operation the said Convention as soon as the exchange of ratifications shall have been effected.

I am glad to renew to you, Most Excellent Sir, the assurance of my highest consideration.

ENRIQUE C. CREEL.

Most Excellent ELIHU ROOT,

Secretary of State of the United States of America.

Mr. Thompson to Mr. Root.

No. 468½.]

AMERICAN EMBASSY, MEXICO,

March 18, 1907.

Honorable ELIHU ROOT,

Secretary of State, Washington, D. C.

SIR: In reference to your No. 210, of the 5th instant, informing the Embassy that the Convention for the Elimination of the Bancos of the Rio Grande had been ratified without amendment by the Senate, I enclose herewith copy of my note to the Foreign Office acquainting the Mexican Government with this fact, as well as copy and translation of Mr. Mariscal's reply, informing the Embassy that similar action has been taken by his Government.

I have the honor to be, Sir,

Your obedient servant,

D. E. THOMPSON.

Enclosures: No. 1. Mr. Thompson to Mr. Mariscal, March 11, 1907; No. 2. Mr. Mariscal to Mr. Thompson, March 15, 1907; No. 3. Translation of No. 2.

[Inclosure 1.]

Mr. Thompson to Señor Mariscal.

AMERICAN EMBASSY, MEXICO,

March 11, 1907.

His Excellency IGNACIO MARISCAL,

Minister for Foreign Affairs.

Mr. MINISTER: I have the honor to inform your Excellency that I have received a communication from my Government, whereby I am advised that the Senate of the United States, by its resolution of February 28, 1907, has given its advice and consent to the ratification without amendment of the Convention with your Excellency's Government, signed on March 20, 1905, for the elimination of the bancos in the Rio Grande from the effects of Article II of the Treaty of November 12, 1884.

I avail myself of this opportunity to renew to Your Excellency the assurance of my high consideration.

D. E. THOMPSON.

[Inclosure 2.]

Señor Mariscal to Mr. Thompson.

SECRETARÍA DE RELACIONES EXTERIORES,

MÉXICO, 15 de Marzo de 1907.

Señor EMBAJADOR: He tenido la honra de recibir la atenta nota de Vuestra Excelencia, fechada el 11 del actual, por la que me he impuesto de que el Senado de los Estados Unidos ha dado su

consentimiento para la ratificación, sin enmienda, de la Convención para la Eliminación de los Bancos en el Río Grande, celebrada entre el Gobierno Americano y el de México el 20 de Marzo de 1905.

Me es grato manifestar á Vuestra Excelencia, en respuesta, que este Gobierno procede ya, igualmente, á la ratificación de dicho instrumento, y aprovecho esta oportunidad para reiterar á Vuestra Excelencia las seguridades de mi alta consideración.

IGNO. MARISCAL.

A Su Excelencia DAVID E. THOMPSON,
Embajador Extraordinario y Plenipotenciario
de los Estados Unidos de América.

[Inclosure 3.]

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,
 MEXICO, *March 15, 1907.*

Mr. AMBASSADOR: I have had the honor to receive Your Excellency's note, dated the 11th instant, by which I am informed that the United States Senate has signified its consent for the ratification, without amendment, of the Convention for the Elimination of the Banks of the Rio Grande, entered into between the Government of the United States and that of Mexico on March 20, 1905.

It affords me pleasure to advise your Excellency, in reply, that this Government has also taken action to ratify the above instrument, and I avail myself of this opportunity to renew to Your Excellency the assurance of my high consideration.

IGNO. MARISCAL.

His Excellency DAVID E. THOMPSON,
Ambassador Extraordinary and Plenipotentiary
of the United States of America.

Mr. Bacon to Señor Creel.

No. 14.]

DEPARTMENT OF STATE,
 WASHINGTON, *March 21, 1907.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 14th instant stating the inquiry of your Government whether the protocol of signature of the maps annexed to the Convention relative to the elimination of certain bancos of the Rio Grande from the effects of Article II of the treaty of November 12, 1884, should not be included in the ratifications of the Convention.

The Department of State would ordinarily have no objection to such inclusion and would approve of such course, but a difficulty

in the way is presented by fact that the Senate in its resolution advising ratification of the Convention, make no mention of the protocol. Nor is it seen by this Department that any action by the Senate on the protocol was required. The maps are an illustrative part of the Convention and are fully defined and identified by its first article. They were before the Senate with the Convention and were considered by the Senate in connection with the Convention; and the Senate's approval of the Convention carried with it the maps.

So far as the two Governments are concerned, the reason why the maps were not signed at the time of the signature of the Convention and were signed on the part of Mexico by a different plenipotentiary, is shown by the protocol, and, in this Department's opinion no greater publicity or effect would be given to the protocol by its inclusion in the ratifications of the Convention.

If, however, it shall be considered desirable by your Government to give publicity to the protocol, the Department would respectfully suggest that this might best be accomplished by including the protocol in the public proclamation of the Convention by the Executive of each country.

Accept, Excellency, the renewed assurance of my highest consideration.

ROBERT BACON,
Acting Secretary.

His Excellency Señor Don ENRIQUE C. CREEL,
Ambassador of Mexico.

Señor Creel to Mr. Root.

Número 57.]

EMBAJADA DE MÉXICO,
EN LOS ESTADOS UNIDOS DE AMÉRICA,
WASHINGTON, 21 de mayo de 1907.

EXCELENTÍSIMO SEÑOR: Tengo la honra de informar á Usted que ya tengo en mi poder el ejemplar de la ratificación, hecha por el Señor Presidente de los Estados Unidos Mexicanos, de la Convención celebrada entre México y los Estados Unidos de América sobre eliminación de bancos en el Río Bravo.

Por lo tanto estoy dispuesto para proceder al canje respectivo, cuando Usted se sirva indicarlo.

Me es grato reiterar á Usted, Excelentísimo Señor, las seguridades de mi más alta consideración.

ENRIQUE CREEL.

Excelentísimo Señor ELIHU ROOT,
Secretario de Estado de los Estados Unidos de América.

EMBASSY OF MEXICO,
TO THE UNITED STATES OF AMERICA,
WASHINGTON, May 21, 1907.

MOST EXCELLENT SIR: I have the honor to inform you that I am in possession of the instrument of the ratification by the President of the United Mexican States of the Convention concluded between Mexico and the United States relative to the elimination of bancos in the Rio Grande.

I am therefore ready to proceed with the exchange whenever you may be pleased to say so.

I take pleasure in renewing to you, Most Excellent Sir, the assurances of my highest consideration.

ENRIQUE C. CREEL.

The Most Excellent Mr. ELIHU ROOT
Secretary of State of the United States of America.

Mr. Root to Señor Creel.

DEPARTMENT OF STATE,
WASHINGTON, May 28, 1907.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 21st instant, by which you advise me that you are ready to proceed with the exchange of ratifications of the Convention for the Elimination of the Bancos in the Rio Grande.

I shall be pleased to effect the exchange with you at the Department of State on Friday afternoon, the 31st, at three o'clock, if you find that time suitable to your convenience.

Accept, Excellency, the renewed assurance of my highest consideration.

ELIHU ROOT.

His Excellency Señor Don ENRIQUE C. CREEL,
Ambassador of Mexico.

MISCELLANEOUS
CORRESPONDENCE,
DOCUMENTS, ETC.



CORRESPONDENCE BETWEEN THE DEPARTMENT OF THE INTERIOR AND
MAJOR W. H. EMORY.

Major Emory to Mr. Ewing.

BOUNDARY COMMISSION, SAN DIEGO, *April 2, 1849.*

SIR: Paper marked "A" will exhibit to you the adoption of my determination of the astronomical line forming the boundary between the United States and Mexico, from the initial point on the Pacific to the junction of the Gila and Colorado rivers, by the Mexican astronomer and surveyor, Señor Don José Salazar y Larregui. The line passing through the five points stated in that paper, as determined by me, is in view of the Tecaté mountain, thirty miles distant, and Señor Salazar undertook to establish on the Tecaté a signal in the prolongation of this line, and has succeeded in doing so; and the same has been verified under my orders.

Knowing the long time that must elapse before the monuments arrive, I have, in conjunction with Mr. Salazar, to secure this line beyond all cavil, and for the convenience of property holders on either side, caused monuments of a pyramidal shape, twelve feet at the base, and twelve feet high, composed of stones and earth, to be erected at the points established. These extend over a space of thirty miles, and embrace all the settled portions. I have bound the government for the payment of one-half the cost of the monuments, the Mexican commission paying the other half.

You were apprized in my last despatch that this commission, when I received the charge of it, was without one cent of money, without a mouthful to eat, and without a hoof or wheel for transportation; and that I was deprived of the only means of doing anything, by being deprived at the same time of military command.

I have not been instructed to estimate funds for the past or future. I have no means of estimating the debts of the commission, but presume this has been done by the late commissioner. I think it proper, however, to send an estimate herewith of funds required by Brevet Captain Hardcastle, to enable him to carry out his instructions. I think it also proper to inform the Department,

for the benefit of 1
authentic informat

towns of Fronteras and Santa Cruz, which have always been counted on by the officers of the commission to furnish supplies, have been ravaged by the wild Indians, and deserted by the inhabitants, and the means of subsistence of the Pimas Indians have been eaten out by the emigrants. In addition to the American emigration, a dense stream of "Sonoreans," and other Mexicans, is now pouring over a portion of the same route into California, desolating the herbage and means of subsistence as they pass. Five thousand and upwards have already penetrated the country this season, and it is estimated by intelligent men that fifteen thousand more are in movement in the same direction.

In connexion with this same subject, and reverting to my despatch No. 2, I presume enough was then said to satisfy you that the expedition should not move from the "Gila eastward." The fact alone, that all it may accomplish, if it can accomplish anything, between the mouth of the Gila and the "Paso del Norte," beyond that of overcoming space, will be by the movement of the Mexican commission, growing out of the action of the joint commission of an ex parte character, and therefore of no value. But, in addition to this, we may lose a great advantage by pushing the survey in that direction—no less than the only practicable route for a railway over the Sierra Madre; which route is near the 32d parallel of latitude. That supposed to have been recently discovered by Lieutenant Simpson I believe impracticable. Had that intelligent officer come further "westward," he would have found an insurmountable barrier.

By pushing the survey eastward, and looking for a branch of the Gila which shall fulfil the conditions of the treaty—the first to intersect the boundary of New Mexico—you will inevitably be made to strike that boundary far north of the parallel of the copper mine; because all the streams south of that parallel, having their sources in the Sierra Madre, running towards the Gila, disappear in the sands before they reach Gila, except in cases of unusual freshets. Working eastward, their almost trackless beds must escape the notice of the keenest explorer. Working from the "Paso del Norte" northward and westward, you strike the sources of the streams themselves; and although they may disappear many leagues before reaching the Gila, they may nevertheless be affluents of that river, and fulfil the condition of the treaty.

Another view of the case may also be taken. The inaccuracy of the map upon which the treaty was made, and which thereby became a part of the treaty, is notorious. It is also known to all who have been much in the frontier States of Mexico, that the boundaries of those States have never been defined on the ground, and are unknown. This is particularly the case of the boundary betwixt New Mexico and Chihuahua. In this condition of things the commissioners must negotiate, and they may adopt the 32d parallel of latitude, until it strikes the San Pedro, or even a more southern parallel of latitude. This would give what good authority, combined with my own observations, authorizes me to say is a practicable route for a railroad—I believe the only one from ocean to ocean within our territory.

Another consideration is, the treaty makes the Gila for a certain extent the boundary. The Gila does not always run in the same bed; whenever it changes the boundary must change, and no survey nor anything else can keep it from changing. The survey of that river, therefore, as it fixes nothing, determines nothing, is of minor importance. It forms of itself a more apparent and enduring monument of the boundary than any that can be made by art; and on the principle that that which is of the greatest necessity should be done first, the line from the Paso del Norte, until it strikes a branch of the Gila, would seem to demand the first attention.

It is but just to say these are not views recently adopted by me; they were entertained and expressed before leaving Washington and since, and I urged that none but the astronomical party, and just as much of the commission, should be sent to the Pacific side as was necessary to fulfil the conditions required by the letter of the treaty.

Very respectfully, your obedient servant,

W. H. EMORY.

Hon. T. EWING, *Secretary of the Interior.*

Major Emory to Mr. Stuart.

CAMP NEAR FORT DUNCAN,

October 1, 1852.

SIR: I have the honor to acknowledge this day the receipt of your letter enclosing me the commission of United States surveyor, for running and marking the line between the United States and the republic of Mexico.

Your letter enclosing the appointment was handed me on the 30th of January at Samalurca, in Mexico, together with a letter of instructions, and a copy of instructions to the commissioner, dated November 4, defining the duties of the surveyor, and directing me to be governed accordingly.

I have been hoping from that day to this to have an interview with the United States commissioner, but have not, in consequence of his absence, nor have I received any communication from him whatever, until the day on which I broke up my camp at the Presidio del Norte, August 20. I received by express a letter from him, a copy of which is herewith enclosed, by which it will be seen he arrived at El Paso on the 16th of August, and proposed to meet me at this place.

There are several points in these instructions, based, as I have reason to believe, upon erroneous information conveyed to the Secretary; and as I believe the commissioner to whom they refer as directly as to myself will concur with me in the recommendation I design making, I have, for obvious reasons, deferred making them until his arrival, and shall defer doing so with the hope of at length meeting him. In the mean time I have pushed the survey with increasing diligence and economy; and many subjects now press so closely, that it is necessary for me to communicate directly with the Secretary, and no longer await the arrival of the commissioner.

I have carried the survey down as far as Laredo, with the exception of a small space still to be covered between the great Chizo Cañon and the Rio San Pedro. On this portion two parties are now operating. One was disbanded and reorganized by me in consequence of a panic which seized it in regard to the Indians; and the other has within these last few days been surrounded by Indians, forced to abandon the survey, retire to the hills, and send in for aid.

To the first I was obliged to give the entire escort, and pass through the infested country myself without a soldier; to the last I gave all the spare men I had; and it was also furnished, at my request, by Major Lamotte, commanding at Las Moras, with five infantry soldiers. This region is the thoroughfare for all the bad Indians on the frontiers. I have passed through it myself without damage, and I hope the two parties will do the same; but enough has happened to justify me in having in previous communications so often urged the necessity of additional escort, and I have now respectfully to request that the Secretary will apply to the War

Department to furnish a company of soldiers to escort either of these parties should they be again driven back; below here no escort will be required.

The parties have each been so well reinforced, I do not believe either of them will have any further trouble, for all work bravely and cheerfully; but if they should, it would cause much delay unless a company of soldiers is held in hand to send them.

On my reaching the ground to take charge of the survey, November, 1851, I found that Mr. Bartlett and the acting surveyor had agreed upon the initial point, $32^{\circ} 22'$, and that a great stone monument had been erected marking the point, and having the usual inscriptions, and the names of the American and Mexican commissioners, astronomers, and surveyors; and Mr. Salazar informed me this had been hastened at the urgent request of the American astronomer and surveyor.

I also found that articles of agreement, based upon the letters of instruction from the commissioner to Col. Graham, my successor and predecessor as chief astronomer, had been entered into with Mr. Salazar for the survey of the boundary, and the survey had been commenced at the initial point, $32^{\circ} 22'$, by Col. Graham.

On the 30th of January, 1852, while on my route west of El Paso, in pursuit of the commissioner, I received unexpectedly, and certainly unsolicited, the letter of appointment as United States surveyor, and your letters of instructions, one to myself and a copy of the letter of instructions to Mr. Bartlett, dated November 4, 1851, in which it is directed that "should the surveyor at any time differ with you [the commissioner] on any question connected with the survey, he [the surveyor] will defer to your [the commissioner's] opinion until the case is submitted and decided by the department.

The surveyor came out long after the initial point was agreed upon, and the monument erected and the line begun, relieved the acting surveyor, and protested against the point. With the protest and the views of the commissioner before him, both sides it is presumed fairly stated, the honorable Secretary instructed the surveyor to sign the maps; but before the instructions reached him, he was relieved, and I was appointed in his place, with the same instructions.

I therefore considered the matter as settled, and the action of the government as final. "The official documents which have been prepared for the purpose," referred to in my letter of appointment and instructions, never having been presented, no action has been taken in the matter definitely and finally to

"settle this important point." I quote from my instructions, for, as I shall presently show, it has, by the views taken of the subject by both sides, ceased to be an important point.

But I have done this in compliance with the letter and spirit of my instructions. Mr. Salazar, the Mexican commissioner and surveyor, met me at the Presidio del Norte, August 1st, to sign the maps of the Rio Grande forming the boundary. Neither party had the maps properly prepared, nor was Mr. Salazar at all prepared in money or means to go on with the work at the rate I was progressing. I had already signed, conjointly with him as astronomer and surveyor, the only maps fit for signature, but he remained pressing me to sign other maps which involve incidentally the initial point agreed upon by Mr. Bartlett, Mr. Conde, Mr. Salazar, and Mr. Whipple, from which Colonel Graham had started his survey of the river. I therefore, on the 28th August, signed the maps according to my instructions, with the reservation contained in the paper, a copy of which is herewith sent, marked "A," signed conjointly by Mr. Salazar and myself, and the statement therein referred to setting forth on the face of the maps that it was the "*boundary-line agreed upon by the two commissioners, April 20, 1851*"

I presume it was never intended I should give my certificate, as astronomer and surveyor, to the correctness of the determination of a point which had been determined by the observations of others, and without consultation or advice of mine. On the other hand, I do not for a moment doubt the power of the government to instruct me on the subject, or hesitate as to my duty to obey its mandates, which I understand as requiring me only to authenticate the initial point agreed upon by the commissioners of the two governments.

In reference to the importance of the point, I think it as well to state that the line agreed upon by the commission, April, 1851, is about 33' north of the line contended for, as that laid down by Disturnell's map, but it reaches about 16' of arc further west; and as both lines run 3° of longitude west, the difference of territory is 3° of longitude multiplied by about 40' of latitude, each having a middle latitude that may, for the purpose of computation, be assumed at 30° . Neither line gives us the road to California, and the country embraced in the area of the difference, with the exception of a strip along the Rio Grande about nine miles long and from one to two wide, is barren, and will not produce wheat,

corn, grapes, trees, or anything useful as food for man, or for clothing.

Neither line will give us a channel of communication for posts along the frontier, without which it is impracticable to comply with the XIth article of the treaty, which enjoins the United States to keep the Indians out of Mexico.

When originally on the work, before the point was determined, having a knowledge of the country from previous reconnoissance, I had the honor of asking the attention of your predecessor to this very subject, in a communication dated April, 1849, San Diego, California, which was subsequently printed by the Senate. I then pointed out what I believed to be the only view taken of the treaty, which would have given us the road, it being, in truth, the only important matter involved in the question. No notice was taken of this, and I was superseded in my command until restored by you, although Mr. Clayton, the Secretary of State, had declined on my application, to relieve me, on the ground of my knowledge of the particular duties to which I was assigned.

On my return to the work, both governments having been committed in the matter by the commission, the time was passed when anything could be effected with the Mexican commission.

It is not pretended that the view there taken of the treaty is as close a legal construction as that taken since; but it is the only one which could have given us a wagon road from the Del Norte to the Pacific by way of the Gila river. And it is believed that, if this point had been urged before discussion took place, or before either party had committed itself, the obvious advantages to both would have secured its adoption.

I have the honor to be your obedient servant,

W. H. EMORY.

The Hon. SECRETARY OF THE INTERIOR.

EXTRACTS FROM COMMISSIONER EMORY'S REPORT TO THE SECRETARY OF THE INTERIOR, DATED JULY 29, 1856.

On the 15th I left Washington, and, after a dreary march across the prairies and uplands of Texas, reached El Paso in November, and resumed my duties in the field on the 25th of that month.^a
[p. 10.]

* * * * *

^a [The pages refer to Major Emory's published report, Sen. Ex. Doc. No. 108, 34th Cong. 1st sess., from which the extracts here printed are taken.—Agent's note.]

Although the Rio Bravo, from El Paso to its mouth, has been frequently mapped, it will surprise many to know, that up to the time when I commenced the survey, by far the largest portion of it had never been traversed by civilized man. This surprise will, however, cease when the reader reaches that part of the report which treats of the physical geography of the country, and his eye rests on the sketches by which it is illustrated. He will then see the impassable character of the river; walled in at places by stupendous rocky barriers, and escaping through chasms blocked up by huge rocks that have fallen from impending heights, where, if the traveller should chance to be caught in a freshet, inevitable destruction would be the consequence.

The plan adopted for the survey was to touch the river at convenient intervals, accessible to wagons, determine those points astronomically, establish depots for the surveying parties, and connect the intervening spaces by lineal survey. I attended in person to the astronomical work and the establishment of the depots. Lieutenant Michler, and assistants Von Hippel and Chandler, were placed in charged of the three surveying parties, and to their able assistance I am much indebted for the successful execution of the plan.

It would subserve no useful purpose to recite the difficulties which we encountered in the prosecution of this work. [pp. 11-12.]

* * * * *

It was not until late in the fall of 1852 that we reached Eagle Pass (Fort Duncan) with the survey, having encountered no disaster, except the suspension of the work of Mr. Chandler's party, which was wrecked in the Cañon of the Rio Bravo, one hundred and twenty miles above the mouth of the Pecos. In the meantime, Mr. Michler's party had carried the survey from the mouth of the Pecos to Laredo. [p. 12.]

* * * * *

After making the best arrangements I could to satisfy the various demands of the men and other creditors of the commission, I repaired to Ringgold barracks, where it was reported the commissioner would strike the boundary on his return trip from Mexico. There I awaited his arrival, occupying my time by establishing an observatory, to be used in the event of the resumption of the work.

On the 20th of December the commissioner arrived; and finding that no security could be given for the payment of the debts already contracted, or for those necessary to be contracted in the future prosecution of the work, I did not hesitate to avail myself of the

authority granted by the Secretary to suspend the work of the survey of the river. A resolution of Congress had already suspended the survey west of the river.

After turning over all the property and papers of the commission, except the instruments and notes of the survey, I repaired to Washington city, and commenced the computation of the field-work as far as it had been completed.

In the month of March, 1853, Congress appropriated a sum of money to complete the survey of so much of the Rio Bravo as constituted the boundary, and to prosecute the office-work of the survey. The commission was immediately reduced and reorganized. A new commissioner (being the fourth) was appointed.

The parties were organized by me, and placed in the field in less than a month; and by the middle of December, 1853, all the field-work was completed within the time and for a less amount than had been estimated.

The following is the organization under which the work of the old boundary was concluded:

Robt. B. Campbell, U. S. commissioner.

Lucius Campbell, secretary.

W. H. Emory, chief astronomer and surveyor.

G. C. Gardner, assistant.

J. H. Clark, assistant.

Lieut. Michler, corps Topographical Engineers, in charge of surveying party.

E. A. Phillips, assistant.

Ed. Ingraham, assistant.

Chas. Radziminski, in charge of surveying party.

Thos. W. Jones, assistant.

Jas. H. Houston, assistant.

Arthur Schott, in charge of surveying party.

M. Seaton, assistant.

J. E. Weiss, assistant.

Capt. George Thom, corps Topographical Engineers, was left in charge of the office-work, assisted by assistants Chandler, Herbst, Thom, Wheaton, and O'Donoghue.

The collation of the geological work was left in charge of Drs. Hall and Parry; that of the zoological, in charge of Prof. Baird; and the botanical, in charge of Prof. Torrey.

Lieut. Michler was assigned to the unfinished work above Eagle Pass, Schott to the survey from Laredo to Ringgold barracks, and assistant Radziminski to the survey from Ringgold barracks to

the mouth of the Rio Bravo; whilst I, with assistants Gardner and Clark, determined astronomically the points along the boundary, intended as checks upon the accuracy of the surveys.

Before the completion of the work, the yellow fever made its appearance, and myself and several of the assistants were attacked—some on the line, and others after leaving it and reaching the northern shores of the Gulf of Mexico, where this disease raged with unusual violence.

No serious inconvenience was experienced, however, in the prosecution of the work, from this cause, and nothing happened to interrupt the harmonious and rapid execution of the field work, but the melancholy loss of assistant Thomas Walter Jones, who was drowned in the Rio Bravo by the upsetting of a skiff, in which he was returning to camp from his labors in the field, on the evening of 23d July, 1853. His body was found two days after, a few miles down the stream, and was buried by his afflicted companions at the rancheria of Dr. Merryman, on the banks of the Rio Bravo.

This ends the narrative of the operations in the field of the various commissions organized under the treaty of Guadalupe Hidalgo.

It is proper for me, however, before closing this chapter, to refer to a publication issued by Mr. J. R. Bartlett, one of the late commissioners on the part of the United States, which professes to give an accurate account of the affairs of the commission. It is not my purpose to review that work, and expose its errors, but simply to correct some statements affecting myself.

Mr. Bartlett's principal achievement on the boundary was the agreement with General Conde, the Mexican commissioner, fixing the initial point on the Rio Bravo, in the parallel of $32^{\circ} 22'$, instead of a point as laid down on the treaty map about eight miles above El Paso, which would have brought it to the parallel of $31^{\circ} 52'$. That agreement is no less remarkable than the adroitness and success with which Mr. Bartlett convinced the authorities at Washington of its correctness.

The question has been so thoroughly discussed, that a reproduction of it here is not called for. It is sufficient to say, that it was disapproved by the astronomer and surveyor on the commission at the time, and was finally repudiated by the government. Mr. Bartlett, in his account of the matter, states I was ordered to sign the map of his initial point, and that I did sign it. But he

did not state what was the purport or meaning of my signature, nor does he give my letter which reported the circumstances to the government; but only an extract of that letter, selecting paragraphs of it to suit his own views. I here supply the deficiency by giving the letter in full, and the agreement signed by myself and Mr. Salazar, the Mexican commissioner, who succeeded General Conde. It will be seen that the Secretary of the Interior took the responsibility of making the action of the two commissioners final, thereby rendering the joint commission authorized by the treaty, as I understood it, a nullity. In view of such an interpretation, my signature as surveyor was only required, as alleged, to perfect the *official documents*; the words of the order were, "*You will sign the map of the initial point agreed upon by the two commissioners.*"

By reference to the treaty it will be seen that any agreement of the kind required the action of the joint commission, and that the joint commission was to be composed, not only of the *two* commissioners, but of the two surveyors also.

I refused to recognise the act as that of the joint commission, and signed the map as the order directed, carefully and studiously attaching a certificate that it was the initial point of the two *commissioners*; and to prevent the possibility of misconstruction, an agreement in writing was entered into with Mr. Salazar, and our signatures attested by witnesses, showing that the map was only that of the boundary agreed upon by the two commissioners, and nothing else.

This course, while it permitted me to obey a specific order in writing from a superior, left the government free to act, and repudiate the agreement by the two commissioners, as it subsequently did.

It is evident that any other course would have resulted in committing the government, irretrievably, to an erroneous determination of our southern boundary. [pp. 15-17.]

* * * * * *

One of the most important duties of our survey was to determine to which side the islands in the Rio Bravo belonged. For this purpose it was agreed between the Mexican commissioner and myself to sound the river on each side of every island, and the centre of the deepest channel should be the boundary line. From the mouth of the river to Ringgold Barracks there are eleven islands, marked on the map from 1 to 11, commencing at the mouth, and this order

of numbering the islands is observed until we reach the parallel of $31^{\circ} 47'$, where the boundary leaves the river. The sheets of the boundary, on a scale of $\frac{1}{80000}$, are numbered from 1 to 54, No. 1 being the mouth of the Rio Grande, and the numbers progressing regularly from the Gulf of Mexico to the Pacific. The islands are numbered on these sheets to indicate their geographical position, but they are represented also on separate sheets on a scale of $\frac{1}{10000}$, to show their topographical and hydrographic details, and to exhibit upon what data they have been allotted to the United States or to Mexico.

Up to Ringgold Barracks these islands are of little value, but above that they are of more importance. Islands Nos. 12 and 13, between Ringgold Barracks and Roma, both fall to the United States. No. 13, called on the maps Beaver island, divides the waters of the river into three parts, and the channel which lies nearest to the Mexican shore is so narrow that steamers can with difficulty pass through it, yet the branches are, by reason of their shallowness, wholly impassable for them. An attempt was made by the Mexican local authorities to arrest the steamboat in its passage through this channel, but not only the survey, but the actual experience of the navigator, proved the narrow one to be the true channel, and consequently the boundary between the two countries. The allotment of all the islands was made upon the condition of things as they existed when the boundary was agreed upon. The channel of the river may change and throw an island once on the Mexican side to the American, and vice versa, but neither the Mexican commissioner nor myself could provide against such a contingency, none having been anticipated in the treaty.

We however agreed, as far as that agreement may be worth anything, that in case the channel of the river changed, the right of navigation through the new channel should remain unimpaired to both countries, but the jurisdiction of the land must remain as we had arranged. [pp. 65–66.]

* * * * *

In the personal account, mention is made of the agreement made with the Mexican commissioner to declare the 111th meridian, from computations based on the data afforded by the Greenwich Ephemeris,^a before receiving the corresponding observations. This arrangement was a necessity arising from our

^a When this agreement was made, no copy of the American Ephemeris had been received, nor was I aware it had been published.

isolated position near the centre of the continent, cut off from all intercourse except by expresses protected by armed escorts. To have awaited the reception of the corresponding observations would have detained us fully eighteen months, at great expense—a result not contemplated by either the United States or Mexican governments, and not contemplated by the treaty, which provided against any possible errors in the location of the line by declaring, “that line shall alone be established upon which the commissioners may fix; their consent in this particular being considered decisive and an integral part of this treaty, without necessity of ulterior ratification or approval, and without room for interpretation of any kind by either of the parties contracting.”

The observations at 1, 11, 13, 14, 15, 17, were made by myself in person; those at 2, by Lieutenant Whipple; at 4, by Señor Jimenez, first engineer Mexican boundary commission; at 5, 10, and 16, by Assistant John H. Clark; at 18, by Assistants Gardner and Clark; and at 12, by Lieutenant W. F. Smith. At most of the stations the observations were carried through at least three lunations; but, it will be seen, the result was not changed materially after the first lunation.

The longitude of the point where the boundary leaves the Rio Bravo was transferred from Frontera by triangulation; and the longitude of El Paso and of No. 14 (the cañon) were respectively transferred from Frontera and San Elceario by flashes of gunpowder simultaneously observed. It was my desire to extend this beautiful and accurate mode of obtaining differences of longitude to many other stations; but in a country without settlements, and traversed by hands of savages who kill at sight, it was impossible to do so, as every party that went out had to be escorted by ten or fifteen armed men.

Where neither of the above means could be resorted to, longitude was obtained by transmission of chronometers from some established point. This method, so successful at sea, where the motion is uniform and smooth, has objections on land, principally the impossibility of moving chronometers without deranging the rate. Every method of transporting them was tried—on carriages, on foot, and on horseback; and an ordinary spring-carriage was found to be the best. No test can be applied to check an error in determining longitude by the transmission of chronometers; for even with three chronometers it is possible for

all to be affected in the same way, though of course not in the same degree—that is to say, all may run, while travelling, too fast or too slow; and when you halt, may resume their former rates.

The observations of the two stations 11 and 12—Frontera and San Elcario—being about the centre of the continent, and in a geographical point of view more important than any others, were combined to arrive at the results given.

The longitude of Frontera from moon culminations, extending through four lunations, computed from the predicted place of the moon and the moon culminating stars, given in the Greenwich Ephemeris for

1851-'52..... = $7^{\text{h}}05^{\text{m}}55^{\text{s}}.3$

The same, after applying the correction due for corresponding observations made at Greenwich and furnished in MSS. from the Observatory at that place, is—

For the 1st lunation, December and January, 1851-'52.....	7 06 11.38
2d " January and February, 1852.....	13.34
3d " February and March, "	14.73
4th " March and April, "	12.48
Mean.....	7 06 12.98
Difference due to correction.....	+ 17.68

The longitude of San Elcario deduced from observations on forty moon culminations, extending through three lunations, computed from the predicted place of the moon and moon culminating stars, given in the Greenwich Ephemeris for 1852..... $7^{\text{h}}04^{\text{m}}46^{\text{s}}.55$

The same, after applying the correction due for corresponding observations made at Greenwich, is—

For the 1st lunation, January and February, 1852.....	7 05 02.52
2d " February and March, "	04.31
3d " April, "	03.44
Mean.....	7 05 03.42
By combining these observations with corresponding ones at Cambridge, Mass., we get.....	7 05 04.3
Difference due to correction.....	+ 17.75

[p. 139-140.]

* * * * * * *

The longitude of the observatory at El Paso erected by the Mexican commission, two hundred feet south and five hundred feet west of the Cathedral tower, was determined by flashes observed simultaneously by Señor Salazar and myself on the nights stated in the preceding part of this article, to be $15^{\circ}.94$ east of Frontera; hence the longitude of El Paso, $7^{\text{h}}05^{\text{m}}56^{\text{s}}.39$.

[p. 141.]

CORRESPONDENCE BETWEEN THE SECRETARY OF STATE OF THE UNITED STATES AND THE UNITED STATES COMMISSIONER OF THE INTERNATIONAL BOUNDARY COMMISSION.

Colonel Mills to Mr Gresham.

DEPARTMENT OF STATE,
INTERNATIONAL (WATER) BOUNDARY COMMISSION,
UNITED STATES AND MEXICO,
TREATIES OF 1884 AND 1889.

EL PASO, TEXAS, *June 21st, 1894.*

To the Honorable,

The SECRETARY OF STATE,

Washington, D. C.

SIR:

The new Mexican Commissioner, Senor Licentiate Don Francisco Javier Osorno, reached El Paso, Friday, the 8th instant, and we had our first Joint session on the 9th, a copy of the proceedings of which, I enclose herewith.

To-day the Engineers reported the completion of their work on the bridges, and I enclose you also copy of their report and the proceedings of the Joint Commission regarding it and other matters. It is not understood that the last clause in Article IV, of the Convention of March 1st, 1889, has any application to the marking of the bridges.

As will be observed from our proceedings, there are but two (2) cases formally submitted for the consideration of the Joint Commission, one at Rio Grande City, Texas, and the other near Havana, Texas, on the lower Rio Bravo.

The river here is almost dry, there being very little water moving in any part of its bed, but owing to heavy rains and floods on the tributaries below, the lower Rio Bravo is quite high; the lagoons and bayous being filled with water and the marshes so soft as to prevent practicable work of the Engineers until perhaps the first of October. So, as will be observed, the Joint Commission has adjourned until the 20th of September, then to meet in San Antonio, Texas, where we have established our principal office, as being more accessible to the work we now have in hand.

I have the honor to be,

Very respectfully, your obedient servant,

ANSON MILLS

Colonel 3d Cavalry, U. S. A., Commissioner.

Enclosures: Engineers report,

Proceedings of Joint Commission.

either government for immediate attention, or either Commissioner should notify the other of business which it was practicable to transact. It being understood that San Antonio, Texas, will thereafter be the principal office of the Commission, by reason of its general accessibility.

ANSON MILLS.

JOHN A. HAPPER.

F. JAVIER OSORNO.

S. F. MAILLEFERT.

[Spanish Text.]

[Inclosure 2.]

COMISION INTERNACIONAL DE LIMITES.

Habiendo terminado los Ingenieros los trabajos que se les encomendaron en la última junta, la Comisión Internacional de Limites se reunió á las 10 A. M., Jueves Junio, 21 de 1894, en la Casa de Corte del Condado de El Paso, Texas.

En el acto los ingenieros presentaron el informe adjunto con su plano en el que aparecen los tres puentes internacionales que cruzan el Rio Bravo del Norte y que unen las Ciudades de El Paso, Texas, Estados Unidos de America, y Ciudad Juarez, Chihuahua, Mexico, asi como las dos riberas del rio y la linea divisoria marcada en cada uno de los puentes.

Los Comisionados tomaron bajo su responsabilidad, en la anterior sesion, interpretar en que terminos debian entenderse las palabras canal principal (main channel) con el objeto de marcar los puentes y que á su juicio debe ser el comprendido entre una y otra ribera del rio.

La Comisión se decidió por esta interpretacion, por cuanto el rio en esta estación esta casi seco en estos lugares; lleva muy poca agua, de tal modo que si se midiese su mayor profundidad vendria á quedar la línea divisoria del puente inferior inmediata á la ribera Americana, en tanto que la línea divisoria del puente superior quedaria muy cerca de la ribera Mexicana; y que durante las crecientes puede calcularse por termino medio que el canal mas profundo probablemente vendria á quedar sobre la línea que se ha marcado en los puentes.

Segun esto, se notara que en cada caso, los Ingenieros han establecido la linea divisoria en el punto medio entre ambas riberas y que han marcado esa linea provisionalmente en los puentes mientras se obtiene la aprobacion de ambos gobiernos; obtenida la cual propone la Comision fijarla permanentemente con monumentos de hierro, y tan pronto como sea posible. Ambos Comisionados estu-

vieron acordes en aprobar los planos de los ingenieros y en recomendar a sus respectivos gobiernos que sean igualmente aprobados y confirmados, tan pronto como sea posible.

Teniendo la Comision mixta que ocuparse inmediatamente en el estudio y resolucion de los dos casas; uno, cerca de Havana, Texas, y Las Prietas, Tamaulipas, conocido con el nombre de Banco de Vela y registrado bajo el No. 1; y el otro, No. 2, con el nombre de Banco de Camargo cerca de Ringgold, Texas, y Camargo, Tamaulipas; y siendo por otra parte impracticable debido a las inundaciones e insalubridad de esas regiones en esta estacion, hacer trabajo alguno eficaz en ambos casos Antes del 1 de Octubre, la Comision en vista de esto quedo aplazada para reunirse en San Antonio, Texas, el 20 de Septiembre proximo, a menos que algun otro asunto se la sometiere por uno u otro gobierno que exija su inmediata atencion, o en el caso en que cualquiera de los Comisionados notifique al otro que se requiere su presencia para tratar de algun asunto. Y queda convenido que desde esa fecha la oficina principal de la Comisión quedará establecida en San Antonio, Texas, por motivo de su facilidad de comunicaciones.

F. JAVIER OSORNO.

ANSON MILLS.

S. F. MAILLEFERT.

JOHN A. HAPPER.

[Subinclosure.]

EL PASO, TEXAS, *June 16th, 1894.*

To the Honorable COMMISSIONERS,

International Boundary Commission.

As requested in the proceedings of the Joint Commission, at its meeting of June 9th, 1894, we the undersigned Consulting Engineers of the International Boundary Commission proceeded to survey the section of the Rio Bravo del Norte, embraced between the three existing bridges between El Paso, Texas, U. S., and the City of Juarez, Chihuahua, Mexico. To this effect, following the method of bearings and distances, we started from the intersection point of the center of the Mexican dike and the east side of West or Upper Bridge; we took the bearing and distance of this line produced to the intersection with the line on the West side of Eastern or Lower Bridge; from thence we took the bearing and distance of the line of the west side of Lower Bridge produced to the intersection with the center line of dike on the United States side; then we took the bearing and distance of this center line produced to the intersection of the line of the east side of the Upper Bridge; and lastly, the bearing and distance of this line on the bridge to the point of beginning.

The position of the Mexican Central R. R. Bridge is shown in the map submitted herewith.

We took two points in the center of dikes on each side of the River, from which we determined by intersections both banks of the River.

According to what has been agreed to, by the Commissioners, the three bridges have been marked on a line half-way between the banks of the River. The metric system was used in all measurements.

UPPER BRIDGE.

We measured from the intersection point on the Mexican side 3.50 to the bank on that side; and from the same intersection 63.50 to the bank on the United States side; taking for the dividing line, half-way between the two banks, which is 33.50 from the intersection point.

MEXICAN CENTRAL R. R. BRIDGE.

We measured from the intersection point on the dike of the Mexican side with the center of the bridge, 5.20 to the bank of the River, and then 65.20 from the same intersection point to the bank on the United States side. For the dividing line, half-way between the two banks, we measured 35.20 from the said intersection point.

LOWER BRIDGE.

We measured from the intersection point of the line on the west side of this bridge with the center line of dike on the United States side 51.60 to the bank on that side; then 135.20 from said intersection to the bank on the Mexican side. For the dividing line half-way between the two banks, we measured 93.40 from the same intersection.

We do not consider it necessary to embody all of the Field Notes in this report, as we have them in this office.

EMIL^o CORELLA,
Consulting Engineer for Mexico.

FRANK B. DABNEY,
*Consulting Engineer
for the United States.*

The map submitted with this report being too large to copy, was filed, according to Article I, of the regulations of the Joint Commission, and marked "Bridge Case No. I."

[Spanish Text.]

[Sub-enclosure 1.]

EL PASO, TEXAS, *Junio 16 de 1894.***Honorables COMISIONADOS:**

De conformidad con lo asentado en el Acta del 9 de este mes de Junio de 1894, los que subscribimos, Ingenieros Consultores de la Comisión Internacional de Limites, hemos procedido á levantar el plano topográfico de la seccion del Rio Bravo del Norte que se extiende entre los tres puentes existentes, los cuales ligan las Ciudades de El Paso, Texas, E. U., y Juarez, Chihuahua, Mexico. A este efecto, y adoptando el metodo de rumbo y distancia, partimos del punto de intersección del centro del dique del lado Mexicano, con el lado oriental del Puente de Arriba ó sea Occidental; tomamos el azimut y distancia de la linea eje del dique hasta el punto de intersección con el lado occidental del puente de Abajo ó sea Oriental; en seguida hicimos estación en este punto, tomamos el azimut y distancia del lado occidental del puente, hasta el punto de intersección con la línea eje prolongada del dique del lado de los Estados Unidos; después, haciendo estación en este punto de intersección, tomamos el azimut y distancia del eje del dique referido, hasta el punto de intersección con el lado oriental prolongado del Puente de Arriba ó sea occidental; y finalmente desde este punto de intersección observamos el azimut y distancia del lado oriental del citado Puente de Arriba, hasta el punto de partida.

La situación del Puente del Ferro Carril Central, como intermediaria, se vé en el Plano que de los tres Puentes, sometemos a la Honorable Comision.

Sobre cada uno de los diques, tomamos una base, desde cuyos extremos situamos las riberas del Rio, por el metodo de intersecciones.

De acuerdo con lo convenido por los Comisionados, hemos marcado los tres Puentes, con una línea equidistante de la ribera del lado de los Estados Unidos, y de la ribera del lado de Mexico como en seguida expresamos.

El sistema métrico fue adoptado para todas las mensuras.

PUENTE de ARRIBA u Occidental. Medimos desde el punto de intersección del lado Mexicano 3,50 á la ribera del mismo lado; y desde la citada intersección 63,50 á la ribera del lado de los Estados Unidos. Tomamos para LINEA DIVISORIA, la equidistancia entre ambas riberas, la cual dista 33,50 del punto de intersección.

FERRO CARRIL CENTRAL MEXICANO Puente Intermediario.

Medimos desde el punto de intersección del dique del lado Mexicano, con el centro de este Puente 5,20 á la ribera del Rio; después desde la misma intersección 65,20 á la ribera del lado de los Estados Unidos. Señalamos como LINEA DIVISORIA la equidistante entre ambas riberas, la cual de halla a 35,20 del punto de intersección.

PUENTE DE ABAJO ú ORIENTAL.

Medimos desde el punto de intersección del eje del dique, del lado de los Estados Unidos, con la línea que determina el lado occidental de este Puente 51,60 á la ribera de igual lado; después desde la misma intersección 135,20 á la ribera Mexicana; y por ultimo para la LINEA DIVISORIA, equidistante entre ambas riberas 93,40, con lo cual terminó la operación.

No consideramos necesario vaciar en este informe, nuestros datos de Campo, por que quedan en el archivo de nuestra oficina.

FRANK B. DABNEY,

El Ingeniero Consultor,

por los Estados Unidos de America.

El Ingeniero Consultor por parte de Mexico.

EMIL^o CORELLA.

Colonel Mills to Mr. Gresham.

SAN ANTONIO, TEXAS, *January 15 1895.*

To the Honorable, the SECRETARY OF STATE,

Washington, D. C.

SIR: I have the honor to report that in accordance with the adjournment of June 21st, 1894, at El Paso, Texas, the Joint Commission re-assembled in San Antonio, Texas, September 20th, 1894. (See copy of journal enclosed.)

The Joint Commission re-assembled at the office of the United States Commissioner on September 28th, when each Commissioner presented to the Joint Commission, in turn the cases then in their possession and ready for consideration. (See copy of journal enclosed.)

The Joint Commission re-assembled September 29th, at the office of the United States Commissioner, and decided to proceed to Laredo and the lower Rio Grande, where the cases in hand seemed to be more urgent, on the 8th of October. (See copy of journal enclosed.)

The Joint Commission re-assembled at the Hamilton House, Laredo, Texas, on October 9th, and requested the Engineers to make the necessary surveys for the demarcation of the two international bridges at that place. (See copy of ~~minutes enclosed~~)

The river was found to be receding from a great flood; higher than any in the past twenty-seven years, the water rising twenty-seven feet above mean stage.

In October 11th the Engineers having reported the completion of their field work and requested that their maps, and reports be deferred until the Commission returned to San Antonio, the Joint Commission then decided to proceed on the following day to Rio Grande City, Texas, via Pena Texas, and there take up Case No. 2, called "Banco de Camargo". (See copy of journal enclosed.)

On October 13th, the Joint Commission met at the office of the American Commissioner and immediately adjourned to make the personal examination of the changes alleged to have been made in the river at that point.* (The journal of this day will be incorporated in the proceedings of this case.)

The river was found to have risen twenty-four feet above mean water in the recent flood, as at Laredo, the highest for twenty-seven years.

On October 14th, the Joint Commission, having made the personal examination, met at the office of the Mexican Commissioner and requested the Engineers to make the necessary surveys, maps and plans. (The journal of this day will be recorded in the proceedings of this case.)

On October 22nd, the Engineers having reported the completion of their field work and requested that the preparation of their reports, maps and plans be deferred until they return to San Antonio, it was so agreed. The Joint Commission then proceeded to take the necessary testimony having completed which, it adjourned. (The journal of this day will be included in the proceedings of this case.)

On October 24th, the Joint Commission, having concluded its investigations at "El Banco de Camargo", and the Mexican Commissioner desiring to see the completed maps and plans and reports of the Engineers before coming to a final decision in this case, met at the office of the Mexican Commissioner and decided to

* [For the full text of the proceedings in the banco cases referred to in this letter, see Proceedings of the International Boundary Commission, pp. 173-187.—Agent's note.]

proceed on the morning of the 26th by barge to "Banco de Vela", to there take up that case, known as No. 1. (The journal of this day will be included in the proceedings of case No. 1.)

The American Commissioner, having failed to secure the small steamer at Laredo, hired a flat boat used as a ferry-boat, at a compensation of two dollars Mexican per day, to proceed down the river. This course was taken for several reasons, first, because the floods had rendered it difficult to use land transportation and approach the different points in the bottoms; second, because it would afford a much better facility for observing the changes that had been made, by comparing on the spot during the entire journey, the river as it now runs with the maps of the Commission of 1852-53; and third, it was more economical and expeditious.

The Joint Commission embarked on the morning of October 26th and arrived at "El Banco de Vela" at noon on the 27th.

On October 30th, the American Commission, having been joined by the Mexican Commission, proceeded to make the personal examination of the "Banco de Vela", case No. 1. (The journal of this day will be included in the proceedings of the case.)

On November 6th, the Joint Commission re-assembled and proceeded to take the necessary testimony in the case. (The journal of this day will be incorporated in the proceedings of the case.) The final decision being deferred until the completion of the reports, maps and plans.

On November 8th the American Commission proceeded in a flat boat down the river, arriving the same day at "El Banco de Granjeno", Case No. 6 and was joined on the 9th, at the camp of the American Commissioner, by the Mexican Commission, and jointly proceeded to make the personal examination of the banco. (The journal of this day will be included in the proceedings of this case.)

On November 10th, the Joint Commission met at the camp of the American Commissioner and proceeded to take testimony in the case. (The journal of this day will be included in the proceedings.)

On November 14th, the Joint Commission met at the office of the Mexican Commission and continued the testimony. (The journal of this day will be included in the proceedings of the case.)

On November 15th, the Joint Commission met at the camp of the American Commissioner, concluding the testimony. (The journal of this day will be included in the proceedings, the final decision in the case being deferred.)

On November 19th, the American Commission resumed its journey by boat and river arriving at "Banco de Santa Margarita", on the 20th. Being joined by the Mexican Commission on the 21st, the Joint Commission proceeded to make the prescribed personal examination. (The journal of this day will be included in the proceedings.)

On November 22nd, the Joint Commission met at the camp of the American Commissioner and proceeded to complete the personal examination and take testimony in the case. (The journal of this day will be included in the proceedings of the case.)

The American contestant, Mr. T. M. Rhodes, being forty miles absent, the testimony could not be concluded, and a summons was sent for him to appear with his witnesses on November 30th.

On November 30th, Mr. Rhodes having appeared with his witnesses, and the American Commissioner having received a telegram from the Mexican Commissioner stating that it was impracticable for him to reach the banco, and requesting that the American Commissioner take the evidence of Mr. Rhodes and his witnesses, the American Commissioner on that day proceeded to take the evidence, which the Mexican Commissioner accepted as testimony, and the journal of that day will be included in the proceedings.

The authorities of the City of Camargo, from whom we rented the flat boat having unexpectedly required its return, it was shipped per Steamer Bessie on November 22nd.

On December 1st, the American Commission proceeded by land transportation to Brownsville, Texas, there to take up the case of the alleged unduly projecting jetties.

On December 3rd, the Joint Commission met at the office of the American Commissioner and proceeded to make the necessary personal observation, and requested the Engineers to make the necessary surveys, soundings &c.

On December 4th, the Joint Commission met at the office of the American Commissioner, where the parties at interest appeared and as will be seen by the journal of that day, came to a friendly understanding, thus relieving the Commission of the unpleasant task of determining the case themselves.

On December 8th, the Engineers having reported the completion of their work, the preparation of their report and map was deferred until their arrival in San Antonio. When this map is finally completed it will be forwarded with the journal of that day and all things in the case, to the Department, and if approved

by both governments, copies of it will be furnished as agreed, in the journal of December 4th, to the local authorities of the cities of Brownsville and Matamoros for the purposes agreed upon.

There being no further work before the Joint Commission on the lower Rio Grande, it decided to proceed to San Antonio, Texas, on December 10th, via steamer and Galveston.

On December 14th, the Joint Commission met at the office of the American Commissioner at San Antonio, Texas, and adjourned to await the reports and maps of the Engineers of the surveys made on the expedition. (The journal of this day is enclosed herewith.)

Having described the journey chronologically, I will now proceed to make some remarks on the general characteristics of the boundary question.

In the first place, all the islands shown by the Emory Survey between Rio Grande City and the Gulf, Nos. 1 to 11, inclusive have totally disappeared so far as we were able to observe, making careful examination as we proceeded down the current. The river was only a few feet above mean water during our journey and we noted carefully the location where these islands were said to have been, but in most cases the river had moved far away in one direction or the other, but we observed no islands reforming in the new channel, so this part of the river is practically without islands so far as we were able to observe.

The population along this part of the river, on both sides, is almost exclusively Mexican, perhaps not one in a hundred of any other race, Spanish being almost exclusively spoken, the habits, sympathies and general characteristics being entirely Mexican. The people are the poorest and least progressive of any I have ever seen except the North American Indians. The extreme drought for the past seven years has probably rendered them more poverty stricken than they have been for generations, and the population generally is perhaps less now than it has been for the past hundred years. To illustrate how densely ignorant they are; a majority of the witnesses called before our Commission were unable to tell their age, or where they had lived at particular years, taking so little note of time. Most of them by reason of their race, claim citizenship in Mexico but voting rights in the United States. These facts are mentioned to illustrate the difficulties that surround this banco question as will hereafter be presented to the Department.

We found the bancos so utterly different from our anticipations that both the Mexican Commissioner and myself, after long and

deliberate consideration have concluded that their process of formation; their form and constantly changing character could not have been contemplated by the Conventions creating the Treaties of 1884 and 1889, and we both have felt impelled to suggest to our governments a reconsideration of Articles 1 and 2 of the Treaty of 1884 so far as they relate to these bancos.

To illustrate our reasons for coming to this conclusion, I will state that the thirteen hundred miles of the Rio Grande which constitute the international boundary from El Paso to the Gulf may be divided into three characteristic divisions. The first from El Paso to Presidio del Norte, where, by reason of the greater fall in the rivers current and a firmer consistency of the soil, the changes in the river channel are true avulsions and clearly come within the avulsive changes described by Attorney General Cushing in his opinion of November 11th, 1856; that is to say by "deserting its original bed the river forces for itself a new channel in another direction" thus forming an island, the length of which, parallel with the river is many times its width, and often leaving many inhabitants with cultivated fields living upon it, and "the nation through whose territory the river thus breaks its way suffers injury by the loss of territory greater than the benefit of retaining the natural river boundary." The second division of the river referred to, extends from Presidio del Norte to Rio Grande City, where the fall is still greater than the first division, but where the permanent banks are so solid and consistent, the greater portion being of rock formation, that little change of any kind is made in the channel. The third, from Rio Grande City to the Gulf, but one hundred and eight miles in a direct line, but two hundred and forty-one by the course of the river, passes through such low alluvial bottoms with such fragile consistency of the banks, and slight fall, that the channel of the river is ever changing from right to left, always eroding the concave bank and depositing on the convex, in low, as well as high water, though of course the changes are more marked during the high water stages. These erosions are greatest where the water in its tangent from its curve strikes the bank at the most obtuse angle, ceasing when the angle becomes so acute that the water is more readily deflected by the consistency of the bank so that when the curve has formed almost a circle the radius of which is dependent on the consistency of the earth and the volume and velocity of the water, the erosions practically cease and the river turns upon itself in a circle and forms a "Cut-off", leaving the land thus separated in something the form of a

pear or gourd, with the stem connected with the river's current at the moment of separation. This will be illustrated by an examination [of the maps ^a] of the four bancos which we have surveyed; practically five, for one of them, Santa Margarita, is a perfect double banco.

These bancos are typical of all the rest not having been, in any way, selected, but taken at random by the accident of the complainants. There are perhaps forty or forty-five other bancos of a similar character, probably nearly equally distributed on the two banks of the river between Rio Grande City and the Gulf. They will likely have but an average of one or two hundred yards frontage on the river channel, but the length of boundary added by following the deepest channel in the bayou or old river bed will probably average four or five miles, thus increasing the boundary line several hundred miles, which instead of simplifying the boundary question will confound the confusion already existing.

These bancos are low land, seldom occupied by any inhabitant, liable to overflow and do overflow almost every year.

In some cases after the cut-off takes place, where at the actual moment of separation the deepest channel in the two currents, then boundary lines, become common, the river recedes from the banco. It so happened in the case of the "Banco de Vela." In such cases the banco could have no possible claim to accretion as the river recedes and it would be left entirely surrounded by domain and people under a foreign jurisdiction.

Two other cases of this kind were informally presented to us; one called the "Banco de Santa Rita" below Hidalgo, where a Mexican by the name of Longoria, has a banco of several hundred acres, entirely separated from the river, who applied to the local Texan authorities for a right of way to the river and the country of his citizenship. This was granted him and he proceeded to fence in his right of way. In doing so however, he cut in two a tract of land belonging to an American citizen by the name of Handy, and he, Handy, made informal complaint to the American Commissioner for right of way to proceed from his house across this Mexican right of way to the river and his land from which he was excluded by the fence.

In another case, the "Banco de Los Benavides" near Brownsville, a Mexican owner by the name of Mainero, applied informally

^a [For these maps, see p. 188-191 of the Proceedings of the International Boundary Commission.—Agent's note.]

to the Mexican Commissioner for a right of way from his land to the river and the country of his citizenship.

Both these complainants were informed by the Commissioners that they could not take notice of the complaint until it was presented through the local authorities, in compliance with the treaty stipulations. They are mentioned here to show the difficulties surrounding this banco question.

Then again, after a cut off, when the river moves on to the banco and again recedes from it, as in many cases it does, it raises questions, if anything, still more complicated; that is to say after having moved on to a banco and destroyed a portion of it, perhaps at the point of cut-off or any other point, the question arises as to what effect it has on the boundary line. That is to say, would these accretions change the boundary line, and add to the jurisdiction of the banco, or would the boundary remain unchanged and the accretions go to other adjacent owners fronting on the river, and the opposite jurisdiction. And in case the accretions fall to the ownership and jurisdiction of the bancos and as its boundary line is always a curve, how can the new boundary line between the banco and the river be determined.

In the cases of the Banco de Granjeno and Santa Margarita, this was the sole question for our consideration; the parties raising no question as to the jurisdiction of Mexico over bancos proper, but the whole question being a dispute over some thirty or forty acres of accretion; the proprietor of the banco claiming it as against the owner of the adjacent land. In all these cases the reverse of Mr. Cushing's proposition appears true and that the nation would suffer greater injury by the loss of the natural river boundary than the loss of territory.

Then again comes the question of expense, which will doubtless be a grave consideration for both countries. It occupied us about ten days field work to survey a banco, the time of travel and preparation of maps and reports will consume about the same time so it is evident that these forty-five bancos would consume several years in the simple surveying, for a single party; then monuments will be necessary to distinguish the boundary where there is no channel, and as the old channel is generally covered with dense growth near the river, and is always in a curve, these monuments would necessarily have to be near each other, so that the expense in establishing the monuments for several hundred miles would be great. At a rough estimate I think it would

cost each nation from one hundred to one hundred and fifty thousand dollars to properly survey and mark with monuments the several hundred miles of new boundary that they would establish.

It will be easy to understand, especially in cases where the bancos are entirely isolated from the river, that they will embarrass the administration of the laws, local, state and federal; that the products of the banco could neither be sold to citizens of the country in which the banco was located without violating the revenue laws, nor transported for sale to the country to which the banco belongs without violating the same laws; neither could the violators of the laws of the country to which the banco belongs be arrested and conveyed to the courts having jurisdiction without special extradition laws.

After a full and careful consideration of all these questions and our experience with the four bancos already surveyed and an examination of many citizens who have still others to survey, we feel that it is our duty before proceeding further, to present these facts for the consideration of our governments and suggest that they may wish to amend Articles one and two of the Treaty of 1884 so that any banco having less frontage on the rivers current than it has depth from the river shall not be considered as an avulsive change as contemplated in the treaty, but in these cases the Commission be authorized to announce the transfer of jurisdiction to the country in which it is located, provision being made for the transfer of the evidence of titles to land from the local authority on the side from which it is transferred to the local authority on the side to which it is transferred. The inhabitants of the land, if there be any, to retain their citizenship in the country to which they belong if they so choose.

As Article eight of the Treaty of 1889 provides that the judgment of the Joint Commission shall be considered binding upon both governments, unless one of them shall disapprove it within one month, reckoning from the day on which it shall have been pronounced, and as this subject may occupy the two governments for more than thirty days before coming to a decision; the Commissioners have considered it best not to pronounce their decision on the cases investigated at present or until further instructed by their governments.

In order to testify the unanimity of our opinion in this matter, we have drawn up in the proceedings of the journal of this day, a joint statement to which both our signatures are attached, a copy

of which is transmitted herewith and another copy to be transmitted with the report of the Mexican Commissioner to his government.

The Engineers blue prints of the maps of the surveys of the four bancos, which will explain in detail their character and exact location of the boundary in each case, should the government adhere to the treaty as it exists, (for the technical language of the Treaty, see Art. II, Treaty 1889, appears to clearly establish a banco as an avulsive change) are also herewith inclosed.

The Commission was organized January 8th last, over a year ago. The unfortunate accident to the late Mexican Commissioner, Judge José M. Canalizo, and other causes prevented its getting to work until September 20th, so that we have had but four months active work, and up to the first instant there had been expended of the available appropriation of Twenty-five Thousand Dollars but \$7,959.62 leaving of the appropriation, \$17,040.38 still available.

If the bancos are eliminated from avulsive changes as above, I consider this sum sufficient to carry us through this year, but if not and it is desired that the bancos be surveyed it will be necessary to organize several surveying parties, and an additional appropriation of fifty or seventy-five thousand dollars will be required.

I have the honor to be,

Very respectfully, your obedient servant,

ANSON MILLS

Colonel 3d Cavalry, U. S. A., Commissioner.

Joint Journal on the general subject of isolated bancos in the Rio Grande.

SAN ANTONIO, TEXAS, *January 15, 1895.*

The Engineers having completed and presented to their Commissioners the verbal reports, maps and plans of their work on the river as inscribed in the journal, the Joint Commission met at the office of the Mexican Commissioner at 10 A. M.

The Commission found the bancos so utterly different from what they had expected that, after long and deliberate consideration they concluded that their process of formation, their form and constantly changing character, could not have been contemplated by the Conventions creating the Treaties of 1884 and 1889, and they have both felt impelled to suggest separately to their governments a reconsideration of Articles 1 and 2 of the Treaty of 1884,

so far as those articles relate to these bancos, as said articles appear to clearly establish a banco as an avulsive change.

To illustrate our reasons for coming to this conclusion we will state that the 1300 miles of the Rio Grande which constitute the international boundary from El Paso to the Gulf may be divided into three characteristic divisions.

The first, from El Paso to Presidio del Norte, where by reason of the greater fall in the river's current and the firmer consistency of the earth, the changes in the river's channel are true avulsions and clearly come within the avulsive changes described by Attorney General Cushing in his opinion of November 11th, 1856; that is to say by "deserting its original bed the river forms for itself a new channel in another direction," thus forming an island, the length of which, parallel to the river, is many times its width and often leaving many inhabitants with cultivated fields living on it, and "the nation from whose territory the river thus breaks its way, suffers injury by the loss of territory greater than the benefit of retaining the natural river boundary."

The second division of the river referred to, extends from Presidio del Norte to Rio Grande City, where the fall is still greater than in the first division, but where the permanent banks are so solid and consistent, the greater portion being of rock formation, that little change of any kind is made in the channel.

The third division from Rio Grande City to the Gulf, but 108 miles in a direct line, but 241 by the course of the river, passes through such low alluvial bottoms where the earth has little consistency, with such slight fall, that the channel of the river is ever changing from right to left, always eroding the concave bank and depositing on the convex, in low as well as high water, though of course the changes are more marked during the high water stages. These erosions are greater where the water in its tangent from its curve strikes the bank at the most obtuse angle, ceasing when the angle becomes so acute that the water is more readily deflected by the consistency of the earth, so that when the curve has formed almost a circle, the radius of which is dependent on the consistency of the earth and the volume and velocity of the water, the erosions practically cease and the river turns upon itself in a circle and forms a cut-off, leaving the land so separated, in something like the shape of a pear or gourd. This will be illustrated by an examination of the enclosed maps of the four bancos which we have surveyed, practically five

bancos, for one of them, Santa Margarita, is a complete double banco.

These bancos are typical of all the rest, not having been in any way selected, but taken at random by the accident of the complainants. There are perhaps forty or forty-five other bancos of a similar character in this division, probably nearly equally distributed on the two banks of the river between Rio Grande City and the Gulf. They perhaps will have but an average of one or two hundred yards frontage on the river, but the length of boundary added by following the deepest channel in the bayou or old bed of the river will probably average four or five miles, thus increasing the boundary line several hundred miles, and instead of simplifying the question of boundary would confound the confusion already existing. These bancos are low, generally newly formed land, seldom occupied by any inhabitant, liable to overflow and do overflow almost every year.

In some cases after the cut-off takes place, when at the actual moment of separation, the deepest channel in the two currents become common, the river recedes from the banco. It so happened in the case of the Banco de Vela. In such cases the banco could have no possible claim to accretion as the river recedes and would be left entirely surrounded by domain and people under a foreign jurisdiction.

Two cases of this kind were presented to us, one called the "Banco de Santa Rita" below Hidalgo, where a Mexican by the name of Longoria has a banco of several hundred acres, entirely separated from the river; he applied to the local Texan authorities for a right of way to the river and the country of his citizenship. This was granted him and he proceeded to fence in his right of way. In doing so however, he cut in two a tract of land belonging to an American citizen by the name of Handy, and he, Handy, made informal complaint to the American Commissioner for right of way to proceed from his house across this Mexican right of way to the river and his land, from which he was excluded by the fence.

In another case the "Banco de Los Benavides", near Brownsville, a Mexican owner by the name of Mainero applied to the Mexican Commissioner for right of way from his land to the river and the country of his citizenship.

The public embarrassment incident to such a condition may well be likened to the domestic embarrassment of a family in whose domicile a stranger had legal rights to a single room with ingress and egress.

Both these complainants were informed by the Commissioners that their questions could not be taken notice of until their regular routine. They are mentioned here to show the difficulties surrounding this banco question.

Then again, after a cut-off, where the river moves on to the banco, destroying a portion of it, and again recedes from it, as in many cases it has done (See the maps of Bancos Granjeno and Santa Margarita, where precisely this thing has happened, causing the only question at issue regarding them) questions are raised, if anything still more complicated. That is to say, after having moved on to a banco and destroyed a portion of it, perhaps at the point of cut-off or any other point, the question arises as to what effect it has on the boundary line. Would these accretions change the boundary line and add to the jurisdiction of the banco, or would the boundary line remain unchanged and the accretions go to the adjacent owners fronting on the river and consequently to the opposite jurisdiction.

And in case the accretions fall to the ownership and jurisdiction of the banco, as its boundary line is always a curve, how can the new boundary line between the banco and the river be determined! (See the polygonal tracts of land marked A-B-C-D on the maps of Granjeno and Santa Margarita,^a where this was the sole question raised for our consideration, the jurisdiction of the banco proper being conceded to Mexico.) The proprietor of the banco claiming the accretion as against the proprietor of an adjacent Texan owner. In all these cases the reverse of Mr. Cushing's proposition appears true and that the nation would suffer greater injury by the loss of the natural river boundary than by the loss of territory.

Then again comes the question of expense, which will doubtless be a grave one for the consideration of both countries. It occupied us about ten days' field work to survey a banco and the preparation of the maps and reports will consume about the same time, so it is evident that these forty-five bancos would consume several years in the simple surveying for a single party; then monuments will be necessary to distinguish the boundary, where there is no channel, and as the old channel is generally covered with a dense growth near the river and is always in a curve, these monuments would necessarily have to be near each other, so that the expense in establishing the monuments for several hundred miles

^a [For the maps referred to, see p. 190 and 191 of the Proceedings of the International Boundary Commission.—Agent's note.]

would be great, to say nothing of the added confusion of having monuments in every direction. At a rough estimate we think it would cost each nation from one to two hundred thousand dollars to properly survey and mark with monuments the several hundred miles of new boundary that they would establish.

It will be easy to understand, especially in cases where the bancos are entirely isolated from the river that they will embarrass the administration of the laws, local, state and federal; that the produce of the bancos could neither be sold to citizens of the country in which the bancos are located without violating the Revenue Laws, nor transported for sale to the country to which the bancos belong, without violating the same laws; neither could the violators of the laws of the country to which the banco belongs be arrested and conveyed to the courts having jurisdiction without special extradition laws.

After a careful consideration of all these questions, and our experience with the four bancos already surveyed and an examination of many citizens who have still others to survey, we feel that it is our duty before proceeding further to present these facts for the consideration of our governments, and suggest that they may wish to amend Articles 1 and 2 of the Treaty of 1884 so that any banco having less frontage on the river's current than it has depth from the river, shall not be considered as an avulsive change as contemplated in the Treaty, but in these cases the Commission be authorized to announce the transfer of jurisdiction to the country in which it is located; provision being made for the transfer of the evidence of titles to land from the local authority on the side from which it is transferred to the local authority on the side to which it is transferred. The inhabitants of the land if there be any, to retain their citizenship in the country to which they belong if they so choose.

As Article 8 of the Treaty of 1889 provides that the judgment of the Joint Commission shall be considered binding upon both governments unless one of them shall disapprove it within one month, reckoning from the day on which it shall have been pronounced, and as this subject would probably occupy the two governments for more than thirty days before coming to a decision; the Commissioners have considered it best not to pronounce their decision at present or until further instructed by their governments after the Commissioners shall have explained verbally in detail the question submitted.

In order to testify the unanimity of our opinion in this matter, we have drawn up this joint statement, to which our signatures are attached and which will be incorporated in the journals, a copy of which will be transmitted by each Commissioner to his government.

The blue prints of the maps of the surveys of the four bancos, which will explain in detail their character and exact location of the boundary in each case, are also herewith enclosed.

At 12-30 P. M., the Joint Commission adjourned to meet the next day at 10 A. M.

ANSON MILLS.

JOHN A. HAPPER.

F. JAVIER OSORNO.

S. F. MAILLEFERT.

[Spanish Text.]

SAN ANTONIO, TEXAS, *Enero 15 de 1895.*

La Comisión mixta se reunió en las oficinas del Comisionado mejicano, á las 10 A. M. Los ingenieros presentaron sus mapas y planos de las obras de inspección ejecutadas á orillas del río á que se refieren las actas anteriores, y teniendo en cuenta los informes verbales de los propios ingenieros, los comisionados encontraron tan distinta de lo que se habían imaginado la formación de los bancos, que, despues de largas y bien meditadas consideraciones, llegaron á convenir en que la manera de formarse, y su carácter sumamente variable, no pudieron haber sido comprendidos en la convención que originó los tratados de 1884 y 1889, y en tal virtud ambos comisionados se ven en la necesidad de consultar separadamente á sus respectivos gobiernos un nuevo examen de los artículos 1 y 2 del tratado de 1884 en lo que se refieren á esos bancos, supuesto que, uno y otro artículo citados, parece que consideran que todo banco es debido á un cambio por avulsión.

Para apoyar estas conclusiones á que hemos llegado conviene tener en cuenta que las 1300 millas que tiene la línea divisoria internacional desde El Paso hasta el Golfo de Méjico pueden dividirse en tres grandes secciones de muy distinto carácter.

La primera, desde El Paso hasta Presidio del Norte, en la que por virtud de la grande inclinación de la corriente y la firme consistencia de la tierra, los cambios del canal del río son debidos á verdaderas avulsiones, y comprendidos en los descritos por el Attorney General Cushing, en su dictamen del 11 de Noviembre de 1856, es á saber: entre aquellos que "*alejándose del lecho primitivo del río forman por si mismos un nuevo canal en otra dirección,*"

dejando islas cuya longitud paralela á la orilla del río—es muchísimo mayor que su latitud, aislando tierras cultivadas, con habitantes á veces, y originando que “*la nación cuyo territorio se corta de tal modo debe considerarse mas bien perjudicada que beneficiada por conservar el límite natural del río.*”

La segunda sección del río, se halla comprendida entre Presidio del Norte y Río Grande City: en esta, pendiente de inclinación es aun mayor que en la primera, las riberas sólidas y resistentes, por ser en gran parte de formación de roca, y pocos los cambios que de cualquier género se verifican en el canal.

La tercera sección, de Río Grande City al Golfo, comprende 108 millas en línea directa y 241 siguiendo el curso del río, el cual corre por terrenos bajos de aluvión, en donde la tierra tient poca consistencia, y con tan suave pendiente que el canal del río siempre está cambiando de derecha á izquierda é incesantemente corroyendo la ribera cóncava y haciendo depósitos en la convexa tanto en las aguas bajas como en las altas, aun que, por supuesto, los cambios, son mucho mayores en la época de las crecientes. Estas corrosiones son mas grandes en donde el agua golpea la ribera en la tangente de su curva en ángulo mas obtuso; y cesan cuando el ángulo se hace tan agudo que el agua,—tanto por su volumen y velocidad, cuanto por la resistencia de la tierra,—se desvía rápidamente. Entonces cesa verdaderamente la corrosión y comienza el río á girar sobre si mismo circularmente y hace un corte tal, que la tierra que separa de este modo, toma la forma de una pera ó calabaza vinatera. Ilustrará este punto el examen de los planos de los cuatro bancos que hemos inspeccionado, los que, en realidad, son cinco pues uno de ellos, el de Santa Margarita es positivamente un doble banco.

Estos bancos no escogidos á propósito, sino tomados al acaso segun las querellas de sus reclamantes, son el tipo de todos los demás. Tal vez existen cuarenta ó cuarenta y cinco bancos más, de semejante carácter, en esta sección; y, probablemente, distribuidos por igual en ambas riberas, entre Río Grande City y el Golfo. Tal vez no tienen, mas que unas cien ó doscientas yardas frente al río por término medio; pero la longitud de la línea divisoria, siguiendo el canal mas profundo en el estero ó lecho antiguo del río, es aproximadamente de unas cuatro ó cinco millas, y viene á aumentar la línea limítrofe con algunos centenares de millas, lo cual en vez simplificar las cuestiones de límites vendría á aumentar mas la confusión que ya existe á este respecto. Estos bancos son bajos, y, por regla general de nueva formación, raras veces ocupados

por habitante alguno y expuestos á inundaciones, como casi en todos los años acontece.

En algunos casos ya verificado el corte, y en el momento mismo de la separación cuando el canal mas profundo en ambas corrientes es común,—el río se retira del banco. Esto aconteció en el caso del banco de Vela. En casos tales el banco no podría en verdad reclamar acreción alguna, supuesto que el río, al retirarse, lo deja enteramente rodeado dentro de un territorio y dominio sujetos á jurisdicción extranjera.

Dos casos de este género se nos presentaron; uno llamado “banco de Santa Rita,” abajo de Hidalgo en donde un mejicano llamado Longorio posee un banco de varios centenares de acres enteramente separado del río. El poseedor se dirigió á las autoridades de Texas para tener un derecho de vía pára llegar al río y á la nación de que es ciudadano. Tal derecho se le concedió y, en consecuencia, comenzó á cercar el camino á que tenía derecho.

Pero al hacer esto cortó en dos una parte del terreno perteneciente á un ciudadano americano llamado Handy, el cual presentó su queja—aunque todavía no de una manera formal,—al Comisionado americano para tener derecho de pasar, sobre la vía concedida al ciudadano mejicano hacia el río y por el terreno de que se le privó por medio de la cerca.

En otro caso, el “Banco de los Benavides” cerca de Brownsville, el propietario un ciudadano, llamado Mainero el cual se dirigió al comisionado de México para pedir el derecho de vía desde de su terreno al río y al país de que es ciudadano.

La situación embarazosa que para el derecho público causan casos de esta especie, podría compararse á la que experimentaría una familia en cuyo domicilio tuviera un cuarto un extraño con derecho de entrar y de salir á su antojo.

Los Comisionados manifestaron á ambos quejosos que no podían examinar esos casos hasta que les llegara su turno correspondiente. Y solo se hace aquí mención de ellos para demostrar qué clase de dificultades se originan de estas cuestiones de bancos.

Cuando despues de un corte el río se mueve hacia el banco destruyendo parte de él y posteriormente se retira, como ha pasado en muchos casos, (véanse los planos de los bancos Granjeno y Santa Margarita donde precisamente esto ocurrió, y dió origen á la única controversia suscitada) las complicaciones son mayores aun, si se quiere. Mas claro, después de que el río ha cortado un banco y destruido parte de él,—tal vez en el lugar del corte, ú otro,—surge la dificultad de precisar el efecto que haya causado este corte

en la línea divisoria: ¿las acreciones cambian la línea divisoria y se agregan á la jurisdicción del banco, ó no alteran esa línea y las acreciones pertenecen á los colindantes ribereños, y, por consiguiente, á la jurisdicción opuesta?

En caso que se atribuyan á la propiedad y jurisdicción del banco siendo su línea divisoria siempre una curva, ¿como puede determinarse la línea fronteriza entre el banco y el río? (Véanse los polígonos marcados A-B-C-D en los mapas del Granjeno y Santa Margarita, en donde este fue el único punto de controversia, pues la jurisdicción, de los bancos mismos no se le disputa á México.) El propietario del banco reclama la acreción contra el colindante texano. En todos estos casos la inversa de la proposición de Mr Cushing aparece cierta y la nación sufriría mayor perjuicio por la pérdida de la línea natural del río que por la pérdida de territorio.

Otro punto grave para la consideración de ambas naciones es el de los gastos. Hemos empleado aproximadamente diez días en los trabajos de campo para cada banco y la preparación de los mapas é informes demandará otro tanto, por lo que es evidente, que los cuarenta y cinco bancos consumirían varios años de trabajos topográficos con un solo grupo de ingenieros; además, necesitándose monumentos para distinguir la línea divisoria en donde no hay canal, y estando el antiguo generalmente cubierto de espesa vegetación cerca del río, los referidos monumentos tendrían forzosamente que estar muy cerca unos de otros, por manera que, el gasto de poner los monumentos en varios contenes de millas sería muy grande. Por último hay que tener presente la confusión que resultaría, de monumentos puestos en todas direcciones. Un cálculo aproximado demuestra que á cada nación le costaría unos cien á doscientos mil pesos para hacer los trabajos de ingeniería y poner los monumentos en la nueva frontera.

Es fácil comprender que los bancos, especialmente en los casos en que están enteramente aislados del río, son una rémora para la aplicación de las leyes federales y las locales del Estado; pues las producciones de esos bancos ni pueden venderse á los habitantes del país en donde está el banco, sin violación de las leyes fiscales, ni trasportarse para su realización al país á que pertenece el banco, sin la misma violación de leyes. Tampoco podrían los violadores de las leyes del país á que pertenece el banco ser arrestados y llevados ante los tribunales competentes sin leyes especiales de extradición.

Después de un examen maduro de todas estas cuestiones, en vista de nuestra experiencia de los cuatro bancos ya inspeccionados

y habiendo escuchado la opinión de muchos individuos propietarios de otros bancos, creemos de nuestro deber, antes de pasar adelante, someter estos hechos á la atención de nuestros gobiernos, en la creencia de que pudieran acceder á la modificación de los artículos 1 y 2 de la Convención de 1884, en el sentido de que todo banco que tenga menos frente sobre la corriente del río, que profundidad no se considere como cambio avulsivo según lo exige el tratado, sino que en estos casos se faculte á la comisión para hacer la traslación del banco á la jurisdicción del país en donde está situado, con la reserva de que las escrituras de propiedad á que se refiere dicha traslación se hagan por las autoridades del país que transfiere á aquel que recibe. Los habitantes del terreno, si los hubiere conservarán la ciudadanía del país á que pertenecen, si tal fuere su voluntad.

Como el artículo 8 del tratado de 1889 previene que el fallo de la Comisión será obligatorio para ambos gobiernos, á menos que uno de ellos lo desapruebe dentro de un mes contado desde el día en que se haya pronunciado, y como la resolución de este asunto ocuparía probablemente á los dos gobiernos mas de treinta días, los Comisionados han considerado preferible no fallar por ahora sino hasta no recibir mayores instrucciones de sus gobiernos y después que los Comisionados hayan explicado verbalmente y con minuciosidad los puntos que ahora le consultan.

Para hacer patente la unanimidad de nuestra opinión en el asunto, nos hemos puesto de acuerdo para redactar esta memoria que firmada que sea, se agregará á las actas, y en ejemplar separado será remitida por cada Comisionado á su gobierno.

Adjuntas se remiten copias de los planos (blue prints) de los cuatro bancos—que explican circunstanciadamente su carácter y la localización exacta de la línea divisoria en cada caso.

A las 12.30 P. M., la Comisión mixta levantó la sesión para reunirse al día siguiente á las 10 A. M.

F. JAVIER OSORNO.

S. F. MAILLEFERT.

• ANSON MILLS.

JOHN A. HAPPER.

Colonel Mills to Mr. Olney.

NO. 2 DUPONT CIRCLE

WASHINGTON D C *September 25th 1895*

To the Honorable The SECRETARY OF STATE

Washington D C

SIR: Referring to my Special Report of the 15th of January last transmitting the Joint Report of the Commission relating to certain questions regarding what are known as "Bancos" and the

construction to be placed on the Treaties of 1884 and 1889 regarding them I beg to say that for readier reference I have had 100 copies of the Report printed and have turned over to your Department 50 copies of the same

I enclose you herewith a copy with a memorandum of the probable decision of the Commission in each case of the four Bancos already surveyed to better explain the effect a literal construction of the treaties will have upon the Boundary

I beg also to suggest that as the Commission reassembles on the 20th of next month it will be very advantageous to the Commission especially in an economical point of view if it be practicable to reach a decision on the question submitted before that date

I have retained 50 copies of the Report and have had several applications for copies but as action of your Department is still pending I respectfully request to be informed whether I may furnish them

Very respectfully Your obedient servant

ANSON MILLS
Colonel 3rd Cavalry
Commissioner

[Memorandum.]

PROBABLE DECISION.

Banco De Camargo.

The engineers having completed their maps and reports in the case of Banco de Camargo (No. 2), the Joint Commission met at the office of the ——— Commission for deliberation and final decision, and, after mature consideration of their personal investigation, the reports and maps of the engineers, as well as the evidence taken, find the following facts:

In 1865 the Rio Grande, in front of Rio Grande City, began, by gradual erosion from the Mexican bank and deposit on the American bank, to change to the south in the direction of Camargo, and continued thus to change gradually for 27 years, when, in 1891, it made a sudden avulsion, abandoning the old channel around the accretions by a sudden cut-off at or near the point marked "A" on the accompanying map (sheet No. 1), and that subsequently the Rio Grande has again moved gradually, by erosion of the Mexican bank and deposit on the American bank, towards and on to the banco, until the deepest channel of the river, in its downward course, intersects the line of deepest channel in the late bed of the river or bayou at the point marked "B," and, continuing down

stream, again intersects this late bed of the river or bayou at the point marked "C."

It is therefore the decision of the Joint Commission that the banco known as Banco de Camargo, according to Articles 1 and 2 of the Treaty of 1884, belongs to the jurisdiction of the United States, and that the true international boundary, continuing down the deepest channel of the Rio Grande above Rio Grande City, departs from said deepest channel at the point marked "B," its intersection with the deepest channel of the old bed of the river or bayou, thence continuing along and down the curve of the deepest channel of the old bed of the river or bayou until it again is intersected by the deepest channel of the river at "C," as shown by the map before referred to, and thence continuing in the deepest channel of the river proper.

[Memorandum.]

PROBABLE DECISION.

Banco de Vela.

The engineers having completed their maps and reports in the case of Blanco de Vela (No. 1), the Joint Commission met at the office of the ——— Commission for deliberation and final decision, and, after mature consideration of their personal investigation, the reports and maps of the engineers, as well as the evidence taken, find the following facts:

In 1853 the Rio Grande was making encroachments in a bend to the northeast near Havana Ranch, Texas, on the American bank; that these encroachments continued gradually by erosions of the American bank and deposit on the Mexican bank until the year 1865, when by a sudden avulsion at or near the point "A" marked on the accompanying map (sheet No. 2) it abandoned its channel around the accretions thus made to the Mexican shore, by a sudden cut-off at that point; that subsequently the Rio Grande receded from the point "A" and the banco, in the direction of the Mexican bank, as shown by the map above referred to, thus leaving the Banco de Vela entirely isolated within the dominion of the United States.

It is therefore the decision of the Joint Commission that the banco known as the Banco de Vela, according to Articles 1 and 2 of the Treaty of 1884, belongs to the jurisdiction of Mexico, and that the true international boundary now continues uninterruptedly down the deepest channel of the Rio Grande proper;

but that an additional international boundary line is established by the aforesaid treaty entirely within the dominion of the United States, beginning at the point "A" above referred to; thence down the middle of the deepest channel of the old river-bed in a bayou along the curve of said channel until it returns again to the point "A" on the map before mentioned.

[Memorandum.]

PROBABLE DECISION.

Banco de Granjeno.

The engineers having completed their maps and reports in the case of Banco de Granjeno (No. 6), the Joint Commission met at the office of the ——— Commission for deliberation and final decision, and, after mature consideration of their personal investigation, the reports and maps of the engineers, as well as the evidence taken, find the following facts:

The question submitted to the Commission was not primarily as to the jurisdiction of the banco proper, but as to the accretions to it in a polygonal tract of land designated by the irregular lines A-B-C-D-E (as shown on sheet No. 3). At the time of Major Emory's survey, in 1853, the river to the north of Reynosa, Mexico, had made encroachments on the American bank by gradual erosion, and deposit on the Mexican bank to embrace a great portion of the present banco. This gradual formation continued until about the year 1870, when, by a sudden avulsion at or near the point marked "I" on the map before referred to, it abandoned its former channel and by a cut-off made a new one. Subsequently the river receded from the Mexican bank several hundred yards until it came near and probably encroached upon the banco proper, reaching a curved line, D-E; then again receding from the American shore until it reached its present position as shown on the map before mentioned.

The question in dispute between the contestants was the tract of land embraced in the irregular lines connecting the letters A, B, H, C, D, E, A. The evidence, however, was conflicting on this question, and it is therefore the judgment of the Joint Commission that the banco still consists of only that portion embraced within the line which was the deepest channel of the river at the time of the avulsion or cut-off, less whatever it may have lost by gradual erosion, and that according to Articles 1 and 2 of the Treaty of 1884 the banco known as the Banco de Granjeno belongs

to the jurisdiction of Mexico; and the true international boundary is: continuing down the deepest channel of the Rio Grande above said banco; departing from the said deepest channel at the point marked "F" on the map referred to, the intersection of the present deepest channel with the deepest channel of the old river-bed or bayou; thence down the deepest channel of the said old river-bed or bayou along its curve around the banco until said line is again intersected by the deepest channel of the river in its late position as before described, along the curve E-D; thence along said curved line E-D to its intersection with the present deepest channel of the river at "E;" thence down said deepest channel in the river proper.

[Memorandum.]

PROBABLE DECISION.

Banco de Santa Margarita.

The engineers having completed their maps and reports in the case of Banco de Santa Margarita (No. 8), the Joint Commission met at the office of the ——— Commission for deliberation and final decision, and, after mature consideration of their personal investigation, the reports and maps of the engineers, as well as the evidence taken, find the following facts:

The question submitted to the Commission in this case was not primarily as to the jurisdiction of the banco proper but as to the accretions to it in a polygonal tract of land designated by the irregular lines A-B-C-D (as shown on sheet No. 4). At the time of Major Emory's survey, in 1853, the river between Rosario, Texas, and Rosario, Tamaulipas, had made encroachments on the American bank, by gradual erosion and deposit on the Mexican bank, to embrace a great portion of the present banco. This gradually reformed by erosions from one bank and deposit on the other until about the year 1880 or 1881, when, by a sudden change or avulsion, the river abandoned its old channel and opened a new one at or near the point marked "E" on the accompanying map, forming the first of the double banco. Subsequently the river moved from this point "E" away from the point of avulsion on to the banco a short distance, leaving the banco isolated.

Then the river in its new position began again to form by gradual erosion and deposit the second of the double banco, and continued this formation until about 1887 or 1888, when it abandoned its

old channel around the second of the double banco, and made by a sudden change a new channel at or near the point marked "I" on the map before referred to, after which, about 1891, it moved back towards and probably against and into the banco proper along the line between A and D; thence again receding from the banco until it occupies its present position, as shown by the curved line A-B on the map before mentioned.

The question in dispute between the contestants was the title to the land embraced in the irregular polygonal figure described by the lines A-B, B-C, C-D, and D-A. The evidence, however, was conflicting on this question, and it is therefore the judgment of the Joint Commission that the banco consists of only the portions embraced within the lines where were the deepest channels of the river at the time of each avulsion or cut-off, less whatever the second of the double banco may have lost by gradual erosion. And according to Articles 1 and 2 of the Treaty of 1884 the banco known as the Banco de Santa Margarita belongs to the jurisdiction of Mexico, and the true international boundary is: continuing down the deepest channel of the Rio Grande above said banco; departing from said deepest channel at the point marked "F" on the map referred to, the intersection of the present deepest channel with the deepest channel of the old river-bed or bayou; thence down the deepest channel of the said old river-bed or bayou of the second of the double banco along its curve around the banco until said line is again intersected by the deepest channel of the present river at the point marked "A," before referred to, on the map.

And that there will be a new and independent international boundary entirely within the dominion of the United States as follows:

Beginning at the point "E," before referred to, on the map as the point of the first avulsion; thence down the deepest channel of the bed of the old river and present bayou, following its curve until it again reaches the point "E" before mentioned, embracing the whole of the first of the double banco.

Colonel Mills to Mr. Olney.

EL PASO, TEXAS, *December 11th, 1895.*

To the Honorable, the SECRETARY OF STATE,

Washington, D. C.

SIR:—I have the honor to enclose herewith the original copy of the journal of the Joint Commission of this day, by which you will observe that in addition to the difficulties and embarrass-

ments surrounding the Chamizal Case No. 4, mentioned in my letter of the 10th instant, new difficulties have arisen from the facts stated in the journal, the principal of which is that the photographic copy of the original map on file in the State Department, Sheet No. 29 of the Emory Survey, is without the signatures of either of the Commissioners and the photograph shows some evidence that it had been duly signed and erased, and as this United States map bears a note upon its face to the effect that it was made six months subsequent to the map of the Mexican Commission, and showed considerable discrepancy, the greatest being probably 150 yards at or near the point where the Mexican claim of avulsion is alleged to have taken place. The Mexican Commissioner declined positively to give this map any official consideration and insisted upon proceeding with the map of the Mexican Commission, to which I felt constrained to decline to do. Considering all the questions that have arisen in this complicated case and especially the question of validity between the two maps and that no progress could be made towards a solution of the question here between the Commissioners, it occurred to me as being my duty to proceed at once to Washington, carrying all the papers in the case to lay the question before the United States Secretary of State and the Mexican Minister, who I understand have power to treat of them. At the same time I invited the Mexican Commissioner to accompany me that he might lay before his Minister his view of the question at issue, and he is making application to do so. Whether he obtains permission or not I shall proceed alone about the 16th instant to confer with you on these matters.

Meanwhile, as you will observe by the Joint journal the Mexican Commissioner has assented to the Joint Engineers proceeding to develop the surveys of the Chamizal Case, giving each map the same significance as the other for that purpose alone, in order that on our return we may be prepared to take up immediately a solution of the question at issue.

Should the Engineers complete their investigations here before my return, I have instructed my Consulting Engineer to proceed at once to the Island of San Elizario, Case No. 10, and make the necessary surveys there.

I have the honor to be, very respectfully, your obedient servant,

ANSON MILLS,

Colonel Third Cavalry, U. S. A.,

Commissioner.

*Colonel Mills to the Secretary of State.*WASHINGTON, D. C., *February 8, 1896.*

To the Honorable the SECRETARY OF STATE

Washington D C

SIR:—Referring to my letter to you of December 11th last covering copy of the Joint Journal of the Boundary Commission of that date both letter and enclosures being explanatory of the discovery of the want of signature in the photographic copy of Sheet No 29 from the files of the State Department furnished me and the refusal of the Mexican Commissioner to accord it any official significance and his insistence of the recognition of the Mexican Sheet No 29 duly signed as the only authoritative one to be considered in the determination of the Chamizal Case:

I have the honor to report that since my arrival in the City I have made diligent search and enquiry to discover if possible when why and by whom the signatures were erased from this sheet but have been unable to arrive at any conclusion entirely satisfactory. The most plausible solution is that the erasures were made from the manuscript copy because it was not considered complete as it was wanting in the two views shown on the lower left hand corner of the printed copper plate copies in which printed copies the signature of Major Emory seems a fac-simile of that only partially erased.

It remains therefore for you to decide whether I shall yield to the demand of the Mexican Commissioner and consider only the Mexican Sheet No 29 or insist upon the recognition of the American Sheet No 29 which as presented had the signatures erased.

The maximum discrepancy between these two sheets is about 150 yards and it is near the point of the claimed Avulsion but the contour of the land and the character of the evidence so far as heard is such that I do not think a recognition of the Mexican Map will materially affect the final decision.

As the engineers will probably have finished their surveys and maps during the first week in March I respectfully request a decision in this matter if practicable (as well as the question of the bancos) in time for me to reach El Paso on or before March 10th that we may be able to proceed at once with the consideration of the case.

I have the honor to be very respectfully your obedient servant

ANSON MILLS

Colonel Third Cavalry

Boundary Commissioner.

Mr. Adee to General Mills.

DEPARTMENT OF STATE

WASHINGTON, *June 20, 1908.*

Brigadier General ANSON MILLS,

United States Army, retired,

American Commissioner, International Boundary

Commission, United States and Mexico.

2 Dupont Circle, Washington.

SIR:

I have the honor to present to the International Boundary Commission, in accordance with the provisions of the Treaty of 1889 between the United States and Mexico, a claim on behalf of the United States for the land known as "Magoffinville" or "Bosque de Cordova" as shown in red on the enclosed map.

This land appears to have been originally the undisputed territory of the United States and to have been transferred from the north to the south side of the Rio Grande at the same time and in the same manner as the land constituting El Chamizal was transferred from the south to the north bank of the Rio Grande, as disclosed by the evidence in Chamizal Case No. 4 before the International Boundary Commission.

In this connection, attention is directed to the Joint Journals of the International Boundary Commission of December 3, 1897, and April 29, 1898, wherein the right of title to jurisdiction of this land was reserved at the time the artificial cut-off below El Paso was affected.

This claim is presented because it is deemed that a finding in favor of the United States would follow necessarily from a decision sustaining the position taken by Mexico in the Chamizal case, and for the purpose of saving the rights of the United States in case the decision of the Chamizal case should be in favor of Mexico, and without in any wise withdrawing or prejudicing the contentions of the United States in that case.

It is suggested that the consideration of this case might well await the decision of the Chamizal case, as the principles which must control in this case will necessarily be discovered and affirmed in deciding the controversy regarding the Chamizal tract.

I have the honor to be, Sir,

Your obedient servant,

ALVEY A. ADEE,

Acting Secretary.

Enclosure:

Map spoken of above.^a

^a[Inclosure omitted.—Agent's note.]]

INTERNATIONAL BOUNDARY COMMISSION
UNITED STATES AND MEXICO
AMERICAN SECTION.
WASHINGTON, D. C., February 5, 1910.

The Honorable,
The SECRETARY OF STATE.

Sir

Referring to the proposition of Mexico, contained in a note from the Ambassador of May 21, 1908, for a new water boundary treaty, and the consequent agreement that no further decisions in banco cases be made pending the consideration of same, I have just been advised by the Consulting Engineer of this Commission that the survey of all the new bancos on the lower river, some twenty, will be completed within a week, and I have the honor to request that the Department endeavor to obtain Mexico's assent that the Joint Commission may proceed to a decision on all these cases that may prove to be true bancos within the meaning of the Treaty of 1905, as well as all other pending cases, and especially the three important banco cases near El Paso, to the end that they may be monumented and finally eliminated.

If this course is not taken it may be many years before the question of a new treaty is finally determined, as was the case in the banco treaty, and necessitate a re-survey of all these new bancos as happened with the fifty-eight bancos when the treaty covering them was finally accomplished.

The Consulting Engineer is now ready to proceed with the work of surveying the Presidio Valley and it seems a waste of time and money to make surveys unless the Joint Commission has authority to proceed in accordance with existing treaties to render decisions which will enable the parties interested to understand their rights, for which knowledge they have been waiting patiently so long.

I have the honor to be, Sir,
Very respectfully,
Your obedient servant,

ANSON MILLS
Commissioner.

Mr. Wilson to General Mills.

MARCH 29, 1910.

Brigadier General ANSON MILLS, U. S. A.,
Commissioner of the part of the United States,
International Boundary Commission,
United States and Mexico,
2, Dupont Circle, Washington, D. C.

SIR;—

The Department acknowledge the receipt of your letter of the 12th instant, transmitting a Joint Journal, in Spanish and English, of March 10, 1910, together with maps,^a this being the last act of your Commission covering the work of monumenting the old bancos in the lower Rio Grande specifically mentioned in Article I of the Treaty of 1905 for the Elimination of Bancos in the Rio Grande.

The Journal and maps above mentioned are approved by the Department.

Authority is hereby granted to publish the same and to distribute them among the parties interested therein at as early a date as possible.

I am, Sir,

Your obedient servant,

For Mr. Knox;

HUNTINGTON WILSON.

Assistant Secretary of State.

General Mills to Mr. Knox.

INTERNATIONAL BOUNDARY COMMISSION

UNITED STATES AND MEXICO

AMERICAN SECTION

EL PASO, May 14, 1910.

The Honorable,

The SECRETARY OF STATE,

Washington, D. C.

SIR:

I have the honor to enclose herewith Joint Journal of May 14, 1910, with tracings, covering the survey of twenty-two bancos on

^a [The Joint Journal and maps referred to are printed in the volume entitled "Elimination of Bancos, p. 14, published by the American section of the International Boundary Commission which is submitted herewith.—Agent's note.]

the lower Rio Grande with tentative traverses marking their limitations.

If the Department approves of the proceedings of the Commission these bancos will be marked and eliminated in accordance with the provisions of the Treaty of 1905.

Kindly return the tracings.

I have the honor to be, Sir,

Very respectfully,

Your obedient servant,

ANSON MILLS,
Commissioner.

[Inclosure 1.]

[Joint Journal.]

INTERNATIONAL BOUNDARY COMMISSION,
UNITED STATES AND MEXICO.

JOINT JOURNAL.

EL PASO, TEXAS, *May 14, 1910.*

The Joint Commission met at the office of the American Commissioner at 10 o'clock A. M.

The Commission took up for consideration the joint report of the Consulting Engineers of May 4, 1910, with maps, covering the work of the survey of twenty-two bancos on the lower Rio Grande, twenty-one of which were formed subsequent to the survey of 1897-8 and one (Tortuga) previous to that date.

As all but one of these bancos were of comparatively recent formation with the abandoned channels clearly defined the laying of the traverses marking their limitations involved no serious difficulties. The Commissioners, therefore, approved the report and maps and they are attached hereto and made a part of this record, and agreed that upon the approval of this Journal by the two Governments the Consulting Engineers would proceed as soon as the conditions of the river permitted to place monuments around these bancos in accordance with the provisions of the Treaty of 1905 and the instructions contained in the Joint Journal of December 6, 1907.

The following are the bancos approved for elimination with numbers indicated as supplied by the Commissioners.

No.	Name.	Year out.	From Mexico.		From U. S.	
			Area in hectares.	Inhabitants.	Area in hectares.	Inhabitants.
59	La Puerta	1909			131	
60	San Francisco,	1907	197.5			
61	Salado	1909			31	
62	Artesitas,	1900			182	
63	Los Ebanos,	1899			49	
64	Tabasco,	1907			17.5	
65	Tortuga,	1860	39			
66	Dougherty,	1904			20	
67	Jalisco,	1909	20.5			
68	Zelezzi,	1904	20			
69	Santander,	1902			42.5	
70	Saenz,	1905			27.5	6
71	Cipres,	1905			9.5	
72	Celaya,	1900			47.	
73	Rosita,	1905	19			
74	Campamento,	1909	20			
75	Carmen,	1905			23.5	6
76	Las Frietas,	1905			34.	
77	Santa Rosalia,	1900			22.5	
78	Los Naranjos,	1900			102.5	2
79	San Martin,	1905			44.5	
80	Caja Pinta,	1900	57.5			
as Total			373.5		784.	14

The Commission then adjourned.

ANSON MILLS.
WILBUR KEBLINGER

F. P. PUGA.
M. M. VETADE.

[Subinclosure.]

[Joint report of the United States and Mexican Engineers.]

EL PASO, May 4, 1910.

To the Honorable COMMISSIONERS,
International Boundary Commission,
United States and Mexico.

GENTLEMEN:

We have the honor to report that we have surveyed and laid proposed traverses around twenty-two bancos on the lower Rio Grande. Twenty-two of these are new ones cut off since 1898 and one (Tortuga) is an old one which was missed in 1898.

We began work at La Puerta December 6, 1909, and completed the work of surveying these bancos and laying the proposed traverses on February 7, 1910, both finishing the field work on the same day. After that date, we went back up the river to take some testimony, but all work was completed on February 15th.

The proposed traverses lie within the middle third of the old channel, where such exists, and divide it equitably. The vertices are marked by substantial stakes.

Accompanying this report, and forming a part of it, are 22 tracings drawn on a scale of 1 in 5000. Each tracing shows a banco with its surrounding topography and gives courses and distances from corner to corner of the proposed traverse. The distances were taken by stadia. When the permanent corners are set and the distances chained there will be slight changes from the traverses shown on the maps, but the permanent corners will be set where the temporary ones now are unless the river shifts so as to change the length of the beginning and ending courses,

On each tracing is also given the situation of the banco with reference to the nearest old banco—so that they can be readily located and identified on the 1898 map. In some cases the old channel of the banco fits closely the 1898 river while in others the river shifted considerably before the banco was cut off. The yellow on the tracings shows the 1898 channel so that the amount of change can readily be seen.

The following is a detailed statement regarding each banco. They are given in the order in which they are located beginning with the one farthest upstream. Where a traverse is unusual we have given the reasons which led us to propose the one shown.

La Puerta Banco,^a No. ——. * * *

Tortuga Banco, No. ——.

Situated 1 kilometer west of Maria Inez banco, No. 46.

Cut from Mexico about 1860.

Claimant, Mrs. W. S. Dougherty, American citizen (said to have bought the Mexican title)

Area to the normal bank of the river 39 hectares, 96 acres
No houses. No inhabitants.

In 1898 the United States Consulting Engineer was told of a small piece of old ground a short distance west of the Maria Inez

^a [The description of the individual bancos is omitted except in the case of Tortuga banco No. 65 which was cut off from Mexico about 1860. A certified copy of the entire report is held at the disposal of the Commission.—Agents note.]

banco No. 46 which was said to be a banco. Diligent inquiry, however, could not fully establish the fact of its being one. The piece of old ground was small, being only some 90 meters long by 10 meters wide, and was situated in the center of a lake—so that his topographers failed to show it on the map. When the Emory channel was put on the map, however, it showed a bend to the north—and the return loop the (to) the south laid through this lake. In the winter of 1908–9, he was told that the surrounding land owners recognized the claim to a Mexican banco, called Tortuga. A survey in January, 1910, checked up the 1898 topography with the exception of showing this bit of old ground, which the first survey omitted. It is undeniably old ground, having several old mesquite trees on it, and it is, we think, safe to assume that the river ran to the north of it when the Emory-Salazar survey was made in 1853 and that the river moved to the south of it by avulsion. This being granted, it became a question as to how the traverse should be laid. Only a short piece of the old right bank—lying to the north and east of the old ground—could be found. Examination of the map shows that the river has formed a bend from the south in front of the old ground and is 800 meters away from it. To the west it is 700 meters and to the east (or southeast) 700 meters. If a traverse were laid running from the end of the old channel to the nearest points on the river's bank, it would give the banco 2000 meters river frontage and would cut square across accretion which belongs to the adjacent main land, not disturbed by the river. In this dilemma, we assumed intermediate positions for the river. We knew that when the banco cut off the river must have run about at right angles to the banco. This, together with the old banks, enabled us to locate Cors. 4 and 8. We then assumed that the river would begin to curve as it moved south, and we located Cors. 3 and 9, running courses 4–3 and 8–9 as near as we could determine, at right angles to this intermediate course of the river. We had the position of the 1898 bank and put Cors. 2 and 10 on it, making corners 3–2 and 9–10 at right angles to it. Then we went to the present river striking its normal bank at right angles. We believe that this traverse divides the ground equitably and follows the spirit of the Treaty of 1905. The patch of old ground, together with the Emory-Salazar channel and the tradition of a banco lead us to the belief that an avulsive change occurred when this piece of ground was moved across the river. When this was we cannot definitely say but it was somewhere about 1860.

* * * * *

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As, with the exception of Trotuga, all of these 22 bancos were of comparatively recent formation and as we had at hand the map made in 1898, the laying of these traverses was much easier than was that of those around the old bancos. Many erosive changes have occurred in the last 12 years in the river's course, as well as these 21 avulsive changes, so that the 1898 map is becoming obsolete. A new map would, in our opinion, be of great value in future work.

Respectfully submitted.

W. W. FOLLETT,
Consulting Engineer.

E. ZAYAS,
Ingeniero Consultor.

[Inclosure 2.]

[Acta.]

EL PASO, TEXAS, *Mayo 14 de 1910.*

La Comisión Mixta se reunió á las 10 a. m. en la Oficina de la Sección Americana y procedió á discutir un informe en común de los Ingenieros Consultores, fechado el dia 4 de Mayo de 1910 y acompañado de varios planos, relativo á la investigación de veintidós bancos adicionales del Bajo Río Bravo, veintiuno de los cuales son de formación posterior al estudio de 1897-8 y sólo uno (el de Tortugas, No. 65) originado antes de esa época.

La formación reciente de todos estos bancos, menos uno, hace que los cauces abandonados que los limitan estén aún muy claramente definidos y que la localización de sus perímetros no haya tropezado con ninguna dificultad seria por lo que no tuvieron reparo alguno los Comisionados en aprobar semejantes informe y planos, disponiendo que pasaran á formar parte de esta Acta y conviniendo en que tan luego como ambos Gobiernos aprueban la misma y las condiciones del río lo permitan, deberán ambos Ingenieros Consultores proceder á monumentar dichos veintidós bancos conforme á lo ordenado en la Convención de 20 de Marzo de 1905 y en el Acta de esta Comisión de 6 de Diciembre de 1907.

La siguiente es una tabla de los bancos adicionales cuya eliminación aquí se recomienda, señalado cada uno de ellos por los Comisionados con el número de orden que le corresponde:—

Número.	Nombre.	Area separada de—		Habitantes.	Año del Corte.
		Los E. U.	México.		
59	La Puerta.....	131.0	.....	0	1909
60	S. Francisco.....	.....	197.5	0	1907
	Á la hoja No. 2	131.0	197.5		

Número.	Nombre.	Area separada de—		Habitantes.	Año del Corte.
		Los E. U.	México.		
		131. 0	197. 5		
61	El Salado.....	31. 0	.....	0	1909
62	Las Artesitas.....	182. 0	.....	0	1909
63	Los Ebanos.....	49. 0	.....	0	1899
64	Tabasco.....	17. 5	.....	0	1907
65	Tortugas.....	.....	39. 0	0	1860
66	Dougherty.....	20. 0	.....	0	1904
67	Jalisco.....	.....	20. 5	0	1909
68	Zolezzi.....	.....	20. 0	0	1904
69	Santander.....	42. 5	.....	0	1902
70	Sáenz.....	27. 5	.....	6	1905
71	El Ciprés.....	9. 5	.....	0	1905
72	Celaya.....	47. 0	.....	0	1900
73	La Rosita.....	.....	19. 0	0	1905
74	Campamento.....	.....	20. 0	0	1909
75	El Carmen.....	23. 5	.....	6	1905
76	Las Prietas.....	34. 0	.....	0	1905
77	Sta. Rosalia.....	22. 5	.....	0	1900
78	Los Naranjos.....	102. 5	.....	2	1900
79	San Martin.....	44. 5	.....	0	1905
80	Caja Pinta.....	.....	57. 5	0	1900
.....	Sumas.....	784. 0	373. 5	.....	.....

En seguida se levantó la sesión.

F. B. PUGA.
M. N. VELARDE.

ANSON MILLS.
WILBUR KEBLINGER.

[Sub-inclosure.]

[Spanish Text. Engineer's Report.]

Á los Honorables COMISIONADOS,
*En la Comisión Internacional de Límites
entre México y los Estados Unidos.*

SEÑORES:—Tenemos la honra de rendir el siguiente informe acerca del estudio topográfico y de los polígonos limítrofes que hemos efectuado y que proponemos para limitar veintidós bancos del Bajo Río Bravo, veintiuno de los cuales son nuevos, cortados después de 1898, y sólo uno (el de Tortugas) antiguo, que pasó inadvertido en el estudio de 1898.

Comenzamos el trabajo en La Puerta el día 6 de Diciembre de 1909 y lo terminamos, habiendo estudiado estos bancos y colocado vértices en los polígonos propuestos para ellos, el 7 de Febrero del presente año. Ambos concluimos las operaciones de campo el mismo día, aunque luego régresamos río-arriba con el fin de obtener algunos testimonios y eso nos ocupó hasta el 15 del citado Febrero.

Los polígonos limítrofes en el terreno y dentro del tercio medio de los cauces antiguos existentes dividiéndolos equitativamente. Los vértices quedaron fijados por medio de fuertes estacones.

Acompañan al presente informé, y son parte de él, 22 calcas dibujadas á la escala de 1:5000. Cada dibujo muestra un banco y sus detalles topográficos adyacentes, así como las longitudes de los lados y sus direcciones respectivas en los polígonos propuestos. Las distancias entre vértices fueron determinadas ástadia, por lo que cuando se midan con cinta al irse á colocar los vértices definitivos diferirán ligeramente de las asentadas en los dibujos, aunque los vértices permanentes quedarán situados en los sitios donde se hallan los estacones provisionales, siempre que las divagaciones del río no obliguen á modificar las dimensiones de los lados extremos.

Cada dibujo da también la situación relativa de cada banco respecto del banco antiguo más cercano; á fin de que puedan fácilmente encontrarse é identificarse en el plano de 1898. En algunos casos los cauces antiguos de los bancos concuerdan bien con el trazo del río de 1898; pero en otros han sido alterados considerablemente por los movimientos del río antes de ser abandonados por él. Las líneas amarillas de las calcas muestran el río de 1898 y fácilmente se puede apreciar el cambio sufrido.

Á continuación detallamos lo necesario relativamente á cada banco. Siguen éstos en el orden que los encontramos, comenzando con el más lejano de la desembocadura del río. En los casos en que aparentemente son irregulares nuestros polígonos, exponemos las razones que tuvimos para proponerlos en las formas que se muestran.

BANCO No. La Puerta.

* * * * * *

BANCO No. , Tortugas.

Situado á un kilómetro al Oeste del banco de María Inés,
Nº 46.

Cortado de México por el año de 1860.

Presunto dueño: Miss W. S. Dougherty, ciudadana americana
(se dice que compró el título mexicano)

Área hasta el borde normal del río:—39'0 hectáreas.

Casas y habitantes:—ningunos.

En 1898 el Ingeniero Consultor de los Estados Unidos tuvo noticia de que á una pequeña porción de terreno á poca distancia al Oeste del banco N° 46, de María Inés, se le daba el nombre de banco. Por una investigación cuidadosa, sin embargo, no pudo establecerse la legitimidad de tal nombre. El terreno antiguo era pequeño, pues sólo tenía unos 90 metros de largo por 10 de anchura, y estaba situado en el centro de una laguna, por lo que sus topógrafos no lo mostraron en su plano. Al sobreponer el trazo del canal de Emory sobre éste, encontró, no obstante, una curva hacia el Norte, y la vuelta que formaba por el Sur correspondió en posición con dicha laguna. En el invierno de 1908-09 supo que los vecinos propietarios reconocían esa propiedad como perteneciente á un banco mexicano llamado "Tortuga." En Enero de 1910 se comprobó por medio de un estudio la topografía del levantamiento de 1898, únicamente con la excepción de que en ella no se mostraba este pequeño terreno, que se omitió entonces; pero es indudablemente, terreno antiguo que contiene viejos mezquites, y creemos que es de asegurarse que el río corrió por la parte del Norte en la época del levantamiento de Emory-Salazar (1853) y que luego cambió su curso hacia el Sur por avulsión. Hecha esta asunción, quedaba por determinarse la forma del polígono conveniente á su limitación. Sólo un pedazo del antiguo borde de la derecha que corría hacia el Norte y hacia el Este del terreno viejo pudo encontrarse. Examinando el plano se vió que el río ha formado una vuelta hacia el Sur, por su frente, y que queda á 800 metros distante del terreno antiguo. Por el Oeste es de 700 metros y por el Este (ó Sureste) 700 metros también. Si se trazare un polígono partiendo del extremo del canal abandonado y hacia el punto más próximo del borde del río, quedaría el banco con 2000 metros de frente y cortaría, además, en ángulo recto á través del terreno firme adyacente no cortado por el río. En tal dilema, asumimos las diversas posiciones que sucesivamente había tenido el río en el intermedio. Sabíamos que cuando fué cortado el banco el río necesariamente tuvo que correr casi normalmente á él. Esto, agregado á la posición de los bordes antiguos, nos puso en aptitud de colocar los vértices 4 y 8. En seguida, asumimos que el río pudo haber comenzado á voltear hacia el Sur al irse desalojando, y así situamos las esquinas 3 y 9, con los lados 4-3 y 8-9 tan propiamente como pudimos hacerlo, siguiendo direcciones normales á las referidas posiciones intermedias del río. Con la dirección que tenía el borde de 1898 pudimos determinar las esquinas

8 y 10, de las
posiciones.

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con equidad

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Salazar-Erno

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ocurrió esto; pero fué más ó menos en 1860.

* * * * *

Como, exceptuando el banco de Tortugas, todos los 22 bancos eran de relativa reciente formación, y como tenemos á mano el plano del levantamiento de 1898, el trazo de estos polígonos fué de mucha más fácil ejecución que en los bancos antiguos. Muchos cambios por acarreo y depósito han ocurrido en los 12 últimos años en el curso del río, además de los 21 bancos formados, así es que el plano de 1898 está muy cambiado:—un nuevo levantamiento, en nuestra opinión, sería de valiosos efectos para futuros casos.

Reiteramos á ustedes las seguridades de nuestra respetuosa consideración.

(Firmado) E. ZAYAS.

Ingeniero Consultor Mexicano.

(Firmado) W. W. FOLLETT,

U. S. Consulting Engineer.

Es copia fiel que certifico.

El Paso, Texas, Mayo 14 de 1910.

M. N. VELARDE,
Secretario Mexicano.

Mr. Wilson to General Mills.

JUNE 6, 1910.

Brigadier General ANSON MILLS,

United States Army, Retired,

American Commissioner, International

Boundary Commission, United States and Mexico.

2 Dupont Circle, Washington, D. C.

SIR:

The Department has received your letter of the 14th ultimo, enclosing the Joint Journal of your Commission, of May 14, 1910, with tracings, covering the survey of twenty-two bancos on the lower Rio Grande with tentative traverses marking their limitations.

You state that if the Department approves the proceedings of the Commission, these bancos will be marked and eliminated in accordance with the provisions of the Treaty of 1905.

In reply you are informed that the Department approves the proceedings of the Commission.

The tracings mentioned in your letter are returned herewith.

I am, Sir,

Your obedient servant,

HUNTINGTON WILSON.

Enclosures:

As above stated.

General Mills to Mr. Knox.

INTERNATIONAL BOUNDARY COMMISSION

UNITED STATES AND MEXICO

AMERICAN SECTION

WASHINGTON, D. C., *February 9, 1911.*

The Honorable, The SECRETARY.

SIR: I have the honor to enclose herewith Joint Journal, in Spanish and English, directing the monumentation of twenty-two bancos, Nos. 59 to 80, inclusive, in accordance with the Journal of May 14, 1910, approved by both governments.

I have the honor to be, Sir,

Very respectfully, your obedient servant,

ANSON MILLS

Commissioner.

[Inclosure 1.]

INTERNATIONAL BOUNDARY COMMISSION

UNITED STATES AND MEXICO

JOINT JOURNAL

EL PASO, TEXAS, *August 1, 1910.*

The Joint Commission met at the office of the American Commissioner at 10 o'clock A. M.

The Joint Journal of May 14, 1910, with maps, covering the work of the survey of twenty-two bancos on the lower Rio Grande, Nos. 59 to 80, inclusive, having had the final approval of the two Governments—the United States under date of June 6, 1910, and Mexico under date of June 8, 1910—it was agreed that the Consulting Engineers be furnished with a copy of this journal and that of May 14, 1910, with the request that they proceed as soon as the condition of the river permits to place monuments

The Commission then adjourned.

ANSON MILLS

F. B. PUGA

WILBUR KEBLINGER

M. N. VELARDE

[Enclosure a.]

[Acta.]

EL PASO, TEXAS, Agosto 1 de 1910.

La Comisión Mixta se reunió á las 10 a. m. en la oficina de su Sección Americana.

Habiendo sido aproba
Estados Unidos el 6 de
8 de igual mes y año—
aprobó el informe en c
los Ingenieros Consulta
nuevos del bajo Río Bra
por los Comisionados el
copias de esta Acta y de
ciones para que tan pr
mitan procedan unidos á monumentar estos bancos en forma
igual á aquella en que se hizo la monumentación de los bancos
antiguos del bajo Río Bravo, números 1 á 58, inclusive.

En seguida se levantó la sesión.

F. B. PUGA.

ANSON MILLS.

M. N. VELARDE.

WILBUR KEBLINGER.

MISCELLANEOUS CORRESPONDENCE.

Mr. Frelinghuysen to Mr. Miller.

DEPARTMENT OF STATE,

WASHINGTON, *January 9, 1885.*

SIR: I have the honor to acknowledge the receipt of your letter of the 6th instant, calling my attention to a promise made during our recent interview to furnish your Committee with the reasons which made necessary the Boundary Convention between the United States and Mexico of November 11, 1884.

These reasons may be briefly stated but, as preliminary to them, and at the same time as largely explaining the history of the present Convention, I herewith inclose copies of notes of

May 31 and June 5, last, from the Minister of Mexico at this Capital, and copy of my reply thereto of July 10, following, as well as copy of Mr. Romero's note of October 10, 1884, relative to the subject.

The insufficiency of the monuments which marked the boundary line at the point in question was a constant source of trouble to this Government, and left the way open for vexatious questions between our people and those of Mexico touching their property rights. This state of affairs is in consequence of the changes in the channel of the Rio Grande since the original survey and demarkation of the boundary line under the Convention of 1848, as defined by the 5th article of that instrument. The present convention, then, provides for no new boundary line, but only for deciding questions arising under the original treaty demarkation, according to definite principles recognized by international law and precedent in order to avoid conflict of international jurisdiction and of right between the people of the two Governments. For this reason it is a measure of the first importance.

In conclusion, I may remark that the disputed ownership of Morteritos Island, mentioned in the inclosed correspondence, and which has lately been decided in favor of the United States, is a case in point, and illustrates the great necessity for such a convention.

I have the honor to be, Sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

Hon. JOHN F. MILLER,

Chairman, Committee on Foreign Relations,

United States Senate.

INCLOSURES.

Mr. Romero to Mr. Frelinghuysen, May 31, 1884.^a

Mr. Romero to Mr. Frelinghuysen, June 5, 1884.^b

Mr. Frelinghuysen to Mr. Romero, July 10, 1884.^c

Mr. Romero to Mr. Frelinghuysen, October 10, 1884.^d

Mr. Bowen to Mr. Bayard.

UNITED STATES SENATE,

WASHINGTON, D. C., *June 3d, 1886.*

SIR: Will you kindly furnish me, for the use of one of my constituents, the true status, as understood in your Department, of the boundary line between the United States and the Republic of

^a [For this inclosure, see supra, p. 589.—Agent's note.]

^b [For this inclosure, see supra, p. 594.—Agent's note.]

^c [For this inclosure, see supra, p. 652.—Agent's note.]

^d [For this inclosure, see supra, p. 671.—Agent's note.]

Mexico, from the mouth of the Rio Bravo or Rio Grande, to El Paso Del Norte.

1st. Is the river regarded as navigable and if so, to what point?

2d. Has the state of Texas supervision over the waters at any point; if so, between what points?

3d. If water can be utilized on the Texas side for mechanical or agricultural purposes? Can permit be granted by the state of Texas, or must such permit come from the United States?

4th. If from the United States, is it in the province of your Dept. or any other, to grant such privilege or must such permit come from Congress?

My constituent, Gov. A. C. Hunt, is familiar head to mouth, and knows the capacity of the tion, but desires to know the theories prevailing, where, he learns from information received of the Chief Engineer of War Department, the survey are lodged.

Your attention will greatly oblige,

Yours, respectfully

THOS. M. BOWEN.

To the Hon. T. F. BAYARD

Secretary of State, City.

Mr. Bayard to Mr. Bowen.

DEPARTMENT OF STATE,

WASHINGTON, 12 June 1886.

The Hon. THOS. M. BOWEN, U. S. S.

United States Senate.

SIR: I have the honor to acknowledge the receipt of your letter of the 3d instant, making certain inquiries as to that part of the Rio Grande which forms the boundary between the United States and Mexico and beg to make the following replies:

Question 1. "Is the river regarded as navigable and if so, to what point?"

This question is one as to which it is not within the range of this Department to give information.

Question 2. Has the State of Texas supervision over the waters at any point, and if so, between what points?

The State of Texas has municipal jurisdiction under the law of Nations, over the Rio Grande to the middle of the Stream, so far as it divides Texas from Mexico. This is subject to such international jurisdiction as the United States may have over such waters

under the Constitution of the United States, and to the right of the free use by Mexico of the Channel.

Article V of the treaty of Guadalupe Hidalgo provides that "the boundary between the two Republics shall commence in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, otherwise called Rio Bravo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch emptying directly into the Sea, from thence up the middle of that river, following the deepest Channel, where it has more than one to the point where it strikes the southern boundary of New Mexico." **

"In order to designate the boundary line with due precision upon authoritative maps, and to establish upon the ground landmarks which shall show the limits of both republics as described in the present article; the two Governments shall each appoint a Commissioner and a Surveyor who before the expiration of one year from the date of the exchange of ratifications of this treaty shall meet at the port of San Diego and proceed to run and mark the said boundary in its whole course to the mouth of the Rio Bravo del Norte. They shall keep journals and make out plans of their operations; and the result agreed upon by them shall be deemed a part of this treaty and shall have the same force as if inserted therein." * * *

"The boundary line established by this article shall be religiously respected by each of the two republics, and no change shall ever be made therein except by the express and free consent of both nations, lawfully given by the general government of each, in conformity with its own constitution."

Due action was taken by Commissioners under this provision.

It may be proper to add that it has been held in this Department that when, through the changing of the channel of the Rio Grande, the distance of an island in the river from the respective shores has been changed, the line adjusted by the Commissioners under the treaty is nevertheless to remain as originally drawn (see papers in Volume of Foreign Relations for 1884, pp. 393, 399.)

Question 3. "If water can be utilized on the Texas side for mechanical or agricultural purposes; can permit be granted by the State of Texas, or must such permit come from the United States?"

The first portion of this question is to be answered in the affirmative with the qualification that waters on the Texas side cannot be so damned or diverted as to injure Mexico without incurring international liability to Mexico.

The privilege of using the boats and adjacent waters of the Rio Grande is one which belongs to Texas, as a State in the Union, and is not, therefore to be obtained by a license from the United States.

This precludes the necessity of answering your fourth question.

I have the honor to be, sir,

Your obedient servant,

T. F. BAYARD.

Mr. Bayard to Mr. Sherman.

DEPARTMENT OF STATE,

WASHINGTON, October 1, 1888.

Hon. JOHN SHERMAN,

Chairman Committee on Foreign Relations,

United States Senate.

SIR: I have the honor to enclose for the information of your Committee, a copy of a joint resolution, House 112, 50th Congress, 1st Session, requesting the President of the United States to negotiate with the Government of Mexico for the creation of an International Commission to determine, according to the rules of the Convention of November 12, 1884, (a copy of which I also enclose) all questions touching the boundary line between the United States and Mexico where it follows the bed of the Rio Grande and Colorado rivers.

This copy follows the exact language of the resolution passed by the House of Representatives on the 26th ultimo, as may be seen by a reference to the Congressional Record of that date pages 9849-9851 to which I invite attention

In connection with this subject I desire to make as brief an explanation as possible of its history, for the better understanding of your Committee.

With a letter of January 9th last, the Honorable W. H. Crain, of the House of Representatives, forwarded to this Department, a letter addressed to him by the Collector of Customs at Brownsville Texas dated December 31, 1887, wherein he forcibly presented reasons why there should be a treaty between the United States and Mexico for the purpose of definitely establishing the boundary line between the two Countries.

In my reply to Mr. Crain, of January 12, 1888, I recognized the importance of Mr. Coke's general arguments upon the subject and explained that while there was a treaty of limits between the two Countries, there was no means prescribed thereby for applying the rule it laid down to determine given cases. And I added that no

definite action in this respect could be taken without the previous consent of Congress, whose feeling in the matter was unknown to the Department.

In response to this letter, Mr. Crain requested that he be furnished with a draft of a bill or resolution, the presentation or discussion of which might serve to indicate the feeling of Congress in the premises. Accordingly on February 13, 1888, the joint resolution which Mr. Crain presented on the 17th of that month was forwarded to him

It was subsequently referred to the Committee on Foreign Affairs and on March 5, 1888, Mr. Hitt of that Committee, in response to his application therefor, was given a copy of Mr. Crain's letter of January 12 last and its enclosure from Mr. Coke.

It may also be added that the measure has the sanction of the Secretary of the Treasury who, in his letter of January 21, 1888, acknowledging receipt of copies of the correspondence between Mr. Crain and myself, transmitted for his information, says: "In view of the difficulties constantly experienced in enforcing the revenue laws on the Mexican frontier, owing, in a great measure, to the present uncertainty as to the boundary line between the two countries, I [Mr. Fairchild] concur in your [my] suggestion for the appointment of an International River Commission, to apply the rule prescribed by the Boundary Convention of November 12, 1884."

Under these circumstances and particularly in view of the importance of the subject, permit me to request that when the House resolution in question shall have been forwarded to the Senate (Should it be referred to your Committee as in all probability it will) you will take such action as may be possible to expedite its passage during the present Session if that can be accomplished.

I enclose herewith, for your further information, copies of the pertinent correspondence upon the subject.

I have the honor to be, sir,

Your obedient servant,

T. F. BAYARD.

[Inclosures.]

1. House Resolution 112, 50th 1st.^a
2. Convention with Mexico of November 12, 1884.^b
3. Mr. Crain to Mr. Bayard Jan. 9, 1888, with enclosure.^c
4. Mr. Bayard to Mr. Crane January 12, 1888.^d

^a [For this inclosure, see *supra*, p. 1151.—Agent's note.]

^b [For this inclosure, see *supra*, p. 67.—Agent's note.]

^c [For this inclosure, see *supra*, p. 693.—Agent's note.]

^d [For this inclosure, see *supra*, p. 696.—Agent's note.]

SIR: I have the honor of the 14th inst. to inform you that the Governor of Texas has received a copy of a telegram from the Mayor of El Paso to the effect that the Mexican Government is constructing a dam across the Rio Grande opposite to and partly in that city with the intention of permanently changing the channel of the river, and requesting that an Engineer officer be sent to the point indicated, to examine and report concerning the location and dimensions of the dam in question.

In reply, I beg to advise you that Major Oswald H. Ernst, Corps of Engineers, who is now on leave of absence at Roxbury, Massachusetts, has been directed to report to you in person for this duty, it being understood that your Department will defray his mileage from Roxbury to El Paso and back again.

A copy of the order in the case is inclosed herewith.

Very respectfully,

WILLIAM C. ENDICOTT.

[Inclosure.]

HEADQUARTERS, CORPS OF ENGINEERS,
Special Orders } UNITED STATES ARMY,
No. 62. } Washington, D. C., November 16, 1888.

By direction of the Secretary of War, Major Oswald H. Ernst, Corps of Engineers, will proceed at once to El Paso, Texas, on duty connected with the Department of State. He will make his journey by the way of Washington, D. C., where he will report in person to the Secretary of State.

Upon the completion of this duty Major Ernst will return to his present place of residence, and he may then avail himself of the remainder of his leave of absence.

This travel is necessary for the public service.

By command of Brig.-Gen. Casey:

CLINTON B. SEARS,
Captain of Engineers, U. S. A.

Mr. Fowler to Mr. Knox.

DEPARTMENT OF JUSTICE,
WASHINGTON, October 1, 1910.

THE SECRETARY OF STATE.

SIR: I have the honor to acknowledge the receipt of your letter of the 1st ultimo, stating that this Government and Mexico propose in the near future to arbitrate the so-called Chamizal dispute.

You ask for authenticated copies of such pertinent documents or papers bearing upon the treaties made between the United States and Mexico regarding the boundary as may be found in the files of this Department, and state that you are particularly anxious to obtain copies of the documents or papers upon which the opinion of the Attorney General of November 11, 1856 (Ops. of Attys. Gen., vol. 8, 175, 188), is based.

In response, I have the honor to inform you that a careful search has been made of this Department's files for such documents and papers as you indicate, and the only papers that have been found are those upon which the opinion referred to is based. Certified copies of these I now enclose.

Respectfully,

J. A. FOWLER,
Acting Attorney General.

Inc. No. 31458.

[Inclosure.]

United States of America.

DEPARTMENT OF JUSTICE.

WASHINGTON, D. C. *October 1, 1910.*

Pursuant to Section 882 of the Revised Statutes, I hereby certify that the annexed papers are true copies of the original papers on file in this Department.

In Witness Whereof, I have hereunto set my hand, and caused the seal of the Department of Justice to be affixed, on the day and year first above written.

[Seal of the
Department of Justice.]

J. A. FOWLER,
Acting Attorney General.

This is what Major Emory proposes.—Let me have your view as soon as convenient.—

Truly yours

R. McCLELAND
Nov 11/56

Hon C. CUSHING

See 3d. paragraph 1st. Art. Treaty 1853.—10 U. S. Laws page 1033.—

A considerable portion of the boundary is formed by the Rio Bravo, or Rio Grande; and in the settled portion of the valleys, which are best adapted to agriculture the bed of the river sometimes changes, and transfers considerable portions of land from one side to the other.—The Commissioners concluded and it is

entered upon their duties, and at the date of the latest intelligence from that quarter some progress had been made in the survey. The expenses incident to the organization of the commission and to its conveyance to the point where its operations were to begin have so much reduced the fund appropriated by Congress that a further sum, to cover the charges which must be incurred during the present fiscal year, will be necessary. The great length of frontier along which the boundary extends, the nature of the adjacent territory, and the difficulty of obtaining supplies except at or near the extremes of the line render it also indispensable that a liberal provision should be made to meet the necessary charges during the fiscal year ending on the 30th of June, 1851. I accordingly recommend this subject to your attention.

DECEMBER, 1851.

DECEMBER, 1851.

The joint commission under the treaty of Guadalupe Hidalgo has been actively engaged in running and marking the boundary line between the United States and Mexico. It was stated in the last annual report of the Secretary of the Interior that the initial point on the Pacific and the point of junction of the Gila with the Colorado River had been determined and the intervening line,

about 150 miles in length, run and marked by temporary monuments. Since that time a monument of marble has been erected at the initial point, and permanent landmarks of iron have been placed at suitable distances along the line.

The initial point on the Rio Grande has also been fixed by the commissioners, at latitude $32^{\circ} 22'$, and at the date of the last communication the survey of the line had been made thence westward about 150 miles to the neighborhood of the copper mines.

The commission on our part was at first organized on a scale which experience proved to be unwieldy and attended with unnecessary expense. Orders have therefore been issued for the reduction of the number of persons employed within the smallest limits consistent with the safety of those engaged in the service and the prompt and efficient execution of their important duties.

DECEMBER, 1852.

By the latest advices from the Mexican boundary commission it appears that the survey of the river Gila from its confluence with the Colorado to its supposed intersection with the western line of New Mexico has been completed. The survey of the Rio Grande has also been finished from the point agreed on by the commissioners as "the point where it strikes the southern boundary of New Mexico" to a point 135 miles below Eagle Pass, which is about two-thirds of the distance along the course of the river to its mouth.

The appropriation which was made at the last session of Congress for the continuation of the survey is subject to the following proviso:

Provided, That no part of this appropriation shall be used or expended until it shall be made satisfactorily to appear to the President of the United States that the southern boundary of New Mexico is not established by the commissioner and surveyor of the United States farther north of the town called "Paso" than the same is laid down in Disturnell's map, which is added to the treaty.

My attention was drawn to this subject by a report from the Department of the Interior, which reviewed all the facts of the case and submitted for my decision the question whether under existing circumstances any part of the appropriation could be lawfully used or expended for the further prosecution of the work. After a careful consideration of the subject I came to the conclusion that it could not, and so informed the head of that Depart-

for the prosecution of the work, or even for the payment to the officers and agents of the arrearages of pay which are justly due to them. I earnestly invite your prompt attention to this subject, and recommend a modification of the terms of the proviso, so as to enable the Department to use as much of the appropriation as will be necessary to discharge the existing obligations of the Government and to complete the survey of the Rio Grande to its mouth.

It will also be proper to make further provision by law for the fulfillment of our treaty with Mexico for running and marking the residue of the boundary line between the two countries.

DECEMBER, 1853.

It has been my earnest desire to maintain friendly intercourse with the Governments upon this continent and to aid them in preserving good understanding among themselves. With Mexico a dispute has arisen as to the true boundary line between our Territory of New Mexico and the Mexican State of Chihuahua. A former commissioner of the United States, employed in running that line pursuant to the treaty of Guadalupe Hidalgo, made a serious mistake in determining the initial point on the Rio Grande; ~~but~~ ~~as~~ his decision was clearly a departure from the direc-

tions for tracing the boundary contained in that treaty, and was not concurred in by the surveyor appointed on the part of the United States, whose concurrence was necessary to give validity to that decision, this Government is not concluded thereby; but that of Mexico takes a different view of the subject.

JUNE, 1856.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.
A PROCLAMATION.

Whereas, pursuant to the first Article of the Treaty between the United States and the Mexican Republic of the thirtieth day of December, one thousand eight hundred and fifty-three, the true limits between the territories of the contracting parties were declared to be as follows:

“Retaining the same dividing line between the two Californias as already defined and established according to the 5th Article of the Treaty of Guadalupe Hidalgo, the limits between the two Republics shall be as follows:

“Beginning in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, as provided in the 5th Article of the Treaty of Guadalupe Hidalgo; thence, as defined in the said Article, up the middle of that river to the point where the parallel of $31^{\circ} 47'$ north latitude crosses the same; thence due west one hundred miles; thence south to the parallel of $31^{\circ} 20'$ north latitude thence along the said parallel of $31^{\circ} 20'$ to the 111th. meridian of longitude west of Greenwich; thence in a straight line to a point on the Colorado river twenty English miles below the junction of the Gila and Colorado rivers; thence up the middle of the said river Colorado until it intersects the present line between the United States and Mexico.”

And whereas, the said dividing line has been surveyed, marked out and established, by the respective Commissioners of the contracting parties, pursuant to the same Article of the said Treaty:

Now, therefore, be it known, that I, Franklin Pierce, President of the United States of America, do hereby declare to all whom it may concern, that the line aforesaid shall be held and considered as the boundary between the United States and the Mexican Republic and shall be respected as such by the United States and the citizens thereof.

In testimony whereof, I have caused the Seal of the United States to be hereunto affixed.

[SEAL] Given under my hand, at the City of Washington, this second day of June, in the year of our Lord one thousand eight

hundred and fifty-six, and the Eightieth.

By the President

W. L. MARCY

Secretary of State

D

The commotions which in time past, and which, unquieted, have led to complaints by persons in authority will ultimately be adjusted. The frontier of the United States has been exempt from acts of those of the other. The increased and their adjustments considerable changes in the Colorado River, which river is a part of the countries. These changes river portions of land which by existing conventions belong to the jurisdiction of the Government on the opposite side of the river. The subject of adjustment of this cause of difficulty is under consideration between the two Republics.

DECEMBER, 1884.

I herewith transmit, for the consideration of the Senate with a view to its ratification, a convention between the United States of America and the United States of Mexico, touching the boundary line between the two countries where it follows the bed of the Rio Grande and the Rio Gila, concluded November 12, 1884, and add that the convention is in accordance with an opinion of the Hon. Caleb Cushing, Attorney-General, dated November 11, 1856. (See Opinions of Attorneys-General, Vol. XIII, p. 175, "Arcifinious boundaries.")

DECEMBER, 1886.

By its resolution in executive session of March 18, 1885, the Senate advised and consented to the ratification of the convention concluded November 12, 1884, between the United States of America and the United States of Mexico, touching the boundary line

between the two countries where it follows the bed of the Rio Grande and the Rio Gila.

The ratifications could not, however, be exchanged between the two contracting parties and the convention proclaimed until after it had received the constitutional sanction of the Government of Mexico, whose Congress but recently convened.

In a note to the Secretary of State of December 26, 1885, Mr. Matias Romero, the minister of Mexico here, advises him of a decree issued by the Mexican Senate in its session of December 11 last, approving, with certain modifications, the convention in question:

"The modifications made in the said treaty by the Mexican Senate are not essential," says Mr. Romero, "since they consist mainly in the rectification of the mistake made when the Gila River was mentioned as a part of the boundary line, the Colorado River being omitted, and in the correction of an error in the Spanish translation."

That the Senate may have the matter fully before it, I herewith transmit a copy of Mr. Romero's note of December 26, 1885, with its inclosure, and return the convention in the original for such further consideration and direction as the Senate in its constitutional prerogative may deem necessary and proper.

MARCH, 1889.

I transmit herewith, for the consideration of the Senate with a view of giving its advice and consent to the ratification thereof, a convention signed in Washington on March 1, 1889, by duly authorized representatives of the United States and Mexico, providing for the institution of an international commission to determine questions between the United States and Mexico arising under the convention of November 12, 1884, by reason of changes in the river bed of the Rio Grande and the Colorado River when forming the boundary between the two countries.

A report of the Secretary of State, with the accompanying correspondence therein described, is also communicated for the information of the Senate.

DECEMBER, 1891.

On November 12, 1884, a treaty was concluded with Mexico reaffirming the boundary between the two countries as described in the treaties of February 2, 1848, and December 30, 1853. March 1, 1889, a further treaty was negotiated to facilitate the

carrying out of the the difficulties occasi that take place from rado rivers in the po between the two Re mission provided fo jurisdiction of any the Mexican Gover enable the United S aspect.

The Mexican Water ters submitted to it in three important Tex., where the two for this case only, t addition of a third n known as "Bancos," off of bends in the E of 1884 and 1889, approved by this Government, but still under consideration by Mexico; and the subject of the "Equitable distribution of the waters of the Rio Grande," for which the commissioners recommended an international dam and reservoir, approved by Mexico, but still under consideration by this Government. Pending these questions it is necessary to extend the life of the commission, which expires December 23 next.

DECEMBER, 1899.

The International Water Boundary Commission, organized by the convention of March 1, 1889, for the adjustment of questions affecting the Rio Grande frontier, has not yet completed its labors. A further extension of its term for one year, until December 24, 1899, was effected by a convention signed December 2, 1898, and exchanged and proclaimed in February last.

DECEMBER, 1900.

A Convention indefinitely extending the time for the labors of the United States and Mexican International (Water) Boundary Commission has been signed.

DECEMBER, 1910.

There has been signed by the representatives of the United States and Mexico a protocol submitting to the United States-Mexican Boundary Commission (whose membership for the purpose of this case is to be increased by the addition of a citizen of Canada) the question of sovereignty over the Chamizal Tract which lies within the present physical boundaries of the city of El Paso, Tex. The determination of this question will remove a source of no little annoyance to the two Governments.

EXTRACTS FROM MESSAGES OF PRESIDENTS OF MEXICO, 1885-1905.

SEPTEMBER, 1885.

Igualmente creo de conveniencia recomendar el exámen y aprobación del tratado concluido en la ciudad de Washington por nuestro Representante, estableciendo ciertas reglas de interpretacion acerca del artículo 1º del tratado de límites de 30 de Diciembre de 1853, que eviten dificultades por las constantes desviaciones á que está expuesto el curso del río Bravo.

* * * * *

[Translation.]

I equally urge the approval of the treaty made in Washington through our Representative establishing certain rules of interpretation of the first article of the boundary treaty of December 30, 1853, to avoid difficulties arising from the constant changes of the course of the Rio Grande.

SEPTEMBER, 1886.

Por instrucciones del Secretario de Relaciones Exteriores, y á consecuencia de un detenido estudio, en que tomó parte la Secretaría de Fomento, nuestro representante en Washington firmó una convención cuyo objeto es evitar las cuestiones originadas por el cambio de cauce de los ríos Bravo y Colorado, que sirven de límite entre México y los Estados-Unidos de América. Aprobada dicha convencion con ligeros cambios por el Senado de la República y luego definitivamente por el Gobierno americano, fué ratificado en México el 11 de Agosto último y enviada á Washington para su canje.

[Translation.]

Under instructions from the Secretary of Foreign Affairs, and after a careful examination participated in by the Department of Public Works, our Representative in Washington signed a treaty

ante the perpetuation of National interests.

APRIL, 1889.

También se concluyó el 1° de Marzo, otra Convención destinada á facilitar la ejecución de los principios reconocidos en el tratado del 21 de Noviembre de 1884, y evitar las dificultades ocasionadas por cambios en el cauce de los rios Bravo y Colorado, estableciendo una Comisión internacional de límites, la cual tendrá jurisdicción exclusiva para decidir, bajo ciertas bases, las cuestiones suscitadas por razón de los linderos que señalan esos ríos. Esta Convención será igualmente sometida á la revisión de la Camara de Senadores.

[Translation.]

On the 1st of March another Convention was arranged designed to carry into execution the recognized principles of the treaty of November 12, 1884, and to obviate the difficulties arising from the changes in the current of the Bravo and Colorado Rivers, by the creation of an International Boundary Commission, which shall exercise exclusive jurisdiction in deciding, under certain conditions, all questions regarding the boundaries as defined in those rivers. This Convention, likewise, is to be submitted for revision to the Chamber of Senators.

SEPTEMBER, 1889.

A fin de proceder á la ratificación del tratado de 1º de Marzo, que establece una comisión internacional de límites para facilitar la aplicación de los principios contenidos en el de 12 de Noviembre de 1884, se espera la noticia de su aprobación por el Senado de los Estados Unidos.

[Translation.]

In order to proceed to the ratification of the Treaty of March 1st, which established an international boundary Commission to facilitate the application of the principles contained in the treaty of November 12, 1884, we are waiting notice of its approval by the United States Senate.

SEPTEMBER, 1890.

La Convención de 1º de Marzo de 1889 sobre establecimiento de una Comisión internacional de límites para arreglar las diferencias que pudieran suscitarse con motivo de los cambios en el curso de los ríos Bravo y Colorado en la parte que sirven de línea divisoria entre México y los Estados Unidos, fué aprobada por el Senado Americano, con la modificación de que sólo durará cinco años. Acerca de esta limitación, el Ejecutivo nacional propondrá lo conveniente á la Cámara de Senadores para lo que tenga á bien determinar.

[Translation.]

The Convention of March 1st, 1889, calling for the creation of an International Boundary Commission, to settle whatever questions might arise from the changes occurring in the channel of the Bravo and Colorado rivers, where the same serve as a dividing line between the United States and Mexico, was approved by the American Senate, with the modification that it was to be operative for only five years. Touching this limitation, the national executive will propose to the Chamber of Senators what is deemed expedient, so that it may take due action thereon.

APRIL, 1891.

La convención celebrada el 1º de Marzo de 1889 con los Estados Unidos de América para el establecimiento de una Comisión internacional que estudie y dirima las cuestiones de límites pendientes, ó que puedan ocurrir, á consecuencia de variaciones en el curso de los ríos Bravo y Colorado, ha sido ya ratificada, y efectuado el canje respectivo el 24 de Diciembre último.

[Translation.]

Another convention, of great interest to our frontier states, is that concluded with the same country on March 1, 1889, which establishes a joint commission charged with the adjustment of pending questions, or which may arise, by reason of the alterations in the boundary line caused by changes in the course of the Bravo and Colorado rivers, by works constructed in them or by any other incident which may affect our boundary in those rivers. It has not been possible until now, however, to put into practice its provisions because the Congress of that republic has not appropriated funds for its Commission.

SEPTEMBER, 1892.

La convención del 1º de Marzo de 1889, para el establecimiento de otra comisión internacional que deberá examinar y resolver las cuestiones de límites, ocasionadas por las alteraciones ocurridas en el lecho del Río Bravo y el del Colorado, ha quedado hasta hoy sin efecto; porque el Congreso de los Estados Unidos no ha aprobado todavía el presupuesto, que le fué presentado oportunamente, para cubrir los gastos que en virtud de este convenio debe erogar

la nación vecina, no obstante las gestiones que se han hecho por parte del Gobierno mexicano, deseoso de ver logrados los importantes fines de la convención á que me refiero.

[Translation.]

The convention of March 1, 1889, for the establishment of another international commission which must examine and decide questions of boundary occasioned by the alterations in the bed of the Bravo and Colorado Rivers, has remained to date without effect because the Congress of the United States has not approved the estimate which was duly presented to cover the expenses which in virtue of this convention the neighboring nation must share; notwithstanding the efforts made on the part of the Mexican government, desiring to see succeed the important ends of the convention I have referred to.

APRIL, 1894.

Con motivo de las dificultades originadas recientemente entre México y los Estados Unidos con respecto á un banco formado al cambiar su cauce el mencionado río, cerca de Reynosa, se propuso al Gobierno de aquel país que, para poner término á las cuestiones suscitadas, se nombrase á la mayor brevedad la comisión que debía establecerse conforme á la convención vigente entre los dos países, para resolver todas las cuestiones nacidas de cambio en el curso de los ríos limítrofes de ambas Repúblicas. Aceptada esta proposición por el Gobierno de los Estados Unidos, se instaló la referida comisión el día 8 de Enero último, en el despacho del Consulado de México en el Paso, Texas. Es de esperarse que de sus trabajos resulte el pronto arreglo de todas las cuestiones de esa especie que ahora tenemos con nuestros vecinos.

[Translation.]

In connection with the difficulties arising recently between Mexico and the United States, respecting a banco formed near Reynosa by a shift in the channel of said River, it was proposed to the Government of that country, in order to end the trouble, that, as speedily as possible, the Commission should be appointed, provided for under the Convention between the two countries, to decide and act upon all questions consequent on the change of channel of rivers separating both Republics. This proposition being accepted, by the Government of the United States, the

to them for examination, agreed to a recess during the summer, as the heat on our Northern frontier interferes with field operations. They will meet again soon in San Antonio, Texas, to take up and dispose of matters that have been presented to them.

APRIL, 1895.

Reunida en San Antonio de Texas la Comisión de límites, creada por la Convención del 1º de Marzo de 1889, entre México y los Estados Unidos, se dedicó al examen de los asuntos que le fueron presentados, para cuyo despacho juzgó conveniente proceder al levantamiento de planos de varias secciones del Río Grande. Además, sometió á la consideración de los dos Gobiernos un proyecto que tiende á evitar las cuestiones de límites que puedan suscitarse por cambios en el lecho del mencionado río; proyecto que se halla en estudio.

[Translation.]

The Boundary Commission, created under the Convention of March 1, 1889, between Mexico and the United States, having met at San Antonio, Texas, devoted itself to an examination of

the matters presented thereto, and judged it expedient to proceed to draft plans of the various sections of the Rio Grande. Furthermore, the Commission submitted to the consideration of the two Governments, a proposal tending to resolve all the boundary questions which might arise by reason of any change in the bed of the said river: a proposal which is, as yet, in abeyance.

SEPTEMBER, 1896.

El 6 de Mayo último, ajustóse en Washington un arreglo para que la Comisión internacional de límites fluviales entre México y los Estados Unidos, estudie algunas cuestiones relativas á la distribución de las aguas del Río Bravo y, con especialidad, á la construcción de una presa cerca de Ciudad Juárez. A este fin, se ha nombrado una sección de ingenieros, que está examinando la parte técnica de esas cuestiones, de vital interés para la agricultura y la industria en aquella región de la frontera.

Esta misma comisión ha resuelto ya dos graves cuestiones de límites internacionales ocasionadas por cambios en el lecho del Río Bravo, una en que se disputaba el terreno llamado del Chamizal y en la que cada uno de los Comisionados falló en favor de su respectivo Gobierno, y otra sobre la isla de San Elizario, resuelta por ambos Comisionados en contra de México.

[Translation.]

On the sixth day of May last, a Convention was concluded at Washington whereby the international water boundary Commission between Mexico and the United States was empowered to study certain questions bearing on the distribution of the waters of the Rio Bravo, and to consider specifically the construction of a dam near Ciudad Juarez. An engineering corps has been appointed to study the technical features of this question, which is of vital importance to the agricultural and manufacturing industries of that frontier region.

The Water Boundary Commission above named has settled two grave questions touching the international boundary, occasioned by changes in the course of the Bravo River. One of those questions related to the disputed Chamizal tract claimed by each of the commissioners on behalf of his government, and the other referred to the San Elisario islet and was decided by both commissioners against Mexico.

from changes in the beds of the Bravo del Norte and Colorado Rivers. In consequence both governments effected at Washington, on November 6th last, a new convention extending the term for another year.

* * * * *

The same commission is engaged in erecting the twenty-one monuments marking the boundary line on the so-called island of San Elizario in the Bravo river.

SEPTEMBER, 1897.

La comisión de límites fluviales entre los dos países ha decidido todos los casos relativos á colocación de monumentos sobre los puentes que nos comunican con Eagle Pass y Laredo de Texas, y á las obras de defensa del Río Bravo frente á Matamoros, Brownsville y Reynosa. Los dictámenes de la comisión en estos casos han sido aprobados por ambos Gobiernos.

[Translation.]

The international water boundary commission has adjudicated all cases arising out of the erection of boundary monuments on the bridges connecting this country with Eagle Pass and Laredo, Texas, and out of the construction of protective works on the

banks of the Rio Bravo, opposite Matamoros, Brownsville and Reynosa. The reports of the commission as to these cases have been approved by both governments.

APRIL, 1898.

El 29 de Octubre último se ajustó una convención entre México y los Estados Unidos, la cual prorroga por un año el plazo fijado en la del 6 de Noviembre de 1896, para que la Comisión Internacional de límites fluviales decida los nuevos casos sometidos á su examen.

Ambos Gobiernos encargaron á los ingenieros de la misma comisión el levantamiento de un plano del Río Bravo en la parte donde, por la naturaleza del terreno, el cauce está sujeto á frecuentes cambios, á fin de facilitar el arreglo de las dificultades que se presentan sobre ejercicio de jurisdicción en los terrenos que la desviación de la corriente deja á una ú otra margen. Ese plano servirá también para el estudio que se está haciendo sobre las reformas de los artículos I y II en la convención del 12 de Noviembre de 1884, propuestas á los dos Gobiernos por la comisión mencionada.

[Translation.]

On the 29th October last, a convention was signed between Mexico and the United States, extending for another year the term fixed by the convention of November 6th, 1896, for the decision by the international water boundary commission, of the new cases submitted to its examination.

The governments of both countries have instructed the engineers attached to said commission to prepare a plan of the Rio Grande at the points where the nature of the ground gives rise to frequent changes in the channel of the stream, in order to facilitate the adjustment of difficulties regarding jurisdiction over lands which the deflection of the river adds to either bank. This map will also aid in the study now being made of the modifications, proposed to said governments by the commission in question, to Arts. I and II of the convention of November 12, 1884.

SEPTEMBER, 1898.

Los ingenieros mexicanos de la Comisión de límites fluviales con los Estados Unidos, terminaron el levantamiento del plano del Río Bravo, desde Río Grande City hasta su desembocadura; lo cual facilitará, como dije en mi informe anterior, el arreglo de las

de ingenieros dibujante, el personal de dicha comisión se ocupa actualmente en la formación de planos del Río Bravo en grande escala. Estas cartas servirán para resolver tanto las cuestiones sobre jurisdicción que á menudo se presentan, cuanto para terminar el estudio de las propuestas reformas á los artículos I y II de la convención del 12 de Noviembre de 1884.

Aprobada por ambos Gobiernos la apertura de un corte para enderezar el Río Bravo en el punto llamado "Paso de Córdoba," al oriente de Ciudad Juárez, se han dado las instrucciones convenientes para que se proceda á esta obra, con la cual se trata de evitar los grandes perjuicios que en la estación de lluvias causa el desbordamiento del río á los habitantes de ambos lados.

Entre tanto, el ingeniero encargado de las obras de defensa en aquella sección, ha procedido á construir algunas que impidan desde luego la inundación de terrenos mexicanos. Estas obras no serán de las que la comisión internacional considera perjudiciales al lado opuesto.

[Translation.]

It having been apparent that the period fixed by the convention of 29th of October 1897 was insufficient for the fulfillment of the tasks entrusted to the Water Boundary Commission between

Mexico and the United States, a new convention was signed on the 2nd of December extending that period by one year.

The staff of said commission, which has been partially renewed and furnished with a sufficient number of engineering draughtsmen, is now engaged in the formation of plans of the Rio Grande on a large scale. These charts will serve as a basis for the decision both of the questions regarding jurisdiction that frequently arise, and for the consideration of the proposed alterations of Articles I and II of the convention of 12th November, 1884.

Both governments having approved the cutting of a new channel in order to straighten the river at a point called "Paso de Cordoba," to the east of Ciudad Juarez, instructions have been issued for the commencement of this work, which, it is hoped, will obviate the severe damages caused by floods in the rainy season to the inhabitants of both banks of the river.

Meanwhile, the engineer in charge of the works of protection in that region, has undertaken certain defense works which will for the present avert the flooding of lands on the Mexican side. Said works will be of such a nature as not to cause damage, in the judgment of the International Commission, to the opposite bank.

SEPTEMBER, 1899.

La Sección Mexicana de la Comisión internacional de límites con los Estados Unidos terminó la formación de los planos del Río Bravo, en grande escala, conforme á un acuerdo de la citada comisión. Estos planos, juntamente con los formados por la Sección Americana, se tendrán presentes al estudiar las reformas á los artículos I y II de la convención del 12 de Noviembre de 1884, según las bases propuestas al Gobierno de aquel país por conducto de su embajada en México.

[Translation.]

The Mexican section of the international boundary commission with the United States, has completed the formation of the plans of the Rio Bravo on a large scale in pursuance to a decision of the commission in question. These plans, together with those formed by the American section, will be taken into account in studying the amendments of Arts. I and II of the convention of November 12th, 1884, on lines proposed to the government of that country through its embassy in Mexico.

for the removal of sand bars (bancos) and which will make the commission permanent, a new convention, extending the expired period for one year, was concluded in Washington on December 22nd last. This international agreement, already approved by the Senate of the United States and ratified by the President of that nation, will be sent to our Senate in accordance with the constitutional requirements.

APRIL, 1905.

Ultimamente se firmó en Washington por nuestro Embajador, conforme á las instrucciones que se le enviaron, un tratado respecto de las pequeñas porciones de terreno que con frecuencia aparecen rodeadas por la corriente del Río Bravo y se denominan "bancos," cuya formación ha dado origen á disputas sobre los límites entre México y la nación vecina. Todas esas dificultades quedarán allanadas por el reciente convenio, según el parecer de las Comisiones de Límites que funcionan en la frontera y que, después de estudiar el asunto por varios años, no han encontrado otra solución más equitativa. Desde luego el Senado Mexicano, como el de los Estados Unidos, va á tener conocimiento de este tratado para autorizarlo con su respetable sanción, si lo juzga conveniente.

[Translation.]

Recently a treaty was signed in Washington by our Ambassador, in accordance with instructions sent him, regarding small portions of land which with frequency are surrounded by the current of the Rio Bravo and are called bancos, which formation has given origin to disputes upon the boundary between Mexico and the neighboring nation. All of these difficulties will be removed by the recent convention, according to the opinion of the boundary commission, which operates on the frontier and which, after studying the matter for several years, has not been able to arrive at a more equitable conclusion. At this time the Mexican Senate, as well as that of the United States, has been advised of this treaty in order that it may confirm same with its authoritative sanction if it is deemed desirable.

STATUTES OF THE UNITED STATES, ETC.

An Act To authorize the construction of a street-railway and wagon-road bridge over the Rio Grande River between the city of El Paso, Texas, and Paso del Norte, Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the El Paso Street Railway Company, a corporation organized and created under and by virtue of the laws of the State of Texas, be, and is hereby, authorized and empowered to construct, own, maintain, and operate a street-railway bridge over the Rio Grande River between the city of El Paso, in the State of Texas, and the city of Paso del Norte, in the State of Chihuahua, Mexico, at such point as may be most convenient to said corporation to unite and connect the street-railroad to be constructed by them in the said city of El Paso with any street-railroad that may be constructed by any person or company in the said city of Paso del Norte, and to build and lay on and across said bridge ways for the passage of animals, foot-passengers, and vehicles of all kinds, for the transit of which said corporation may charge a reasonable toll, which charge shall be subject to revision and regulation by the Secretary of War from time to time.

SEC. 2. That said bridge may be built with unbroken and continuous spans, and of the following dimensions, to wit: Six hundred feet in length, twenty feet in width, ten feet in height above high water level, and with twenty-eight spans, twelve of which to be thirty feet in length and sixteen of which to be fifteen feet

bridge across the Rio Grande between the city of El Paso, Texas, and Paso del Norte, Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the Santa Fe Street Railway Company, a corporation organized and created under and by virtue of the laws of the State of Texas, to construct, own, maintain and operate a street railway and wagon bridge across the Rio Grande, between the city of El Paso, in the State of Texas, and Paso del Norte, State of Chihuahua, Mexico, at such point as may be most convenient to said corporation to unite and connect a street railway to be constructed by it in the said city of El Paso with any street railway that may be constructed by any person, persons or company in said Paso del Norte; and to build and lay on and across said bridge ways for the passage of animals, foot-passengers, and vehicles of all kinds, and for the transit of freight, goods, wares and merchandise, for which said corporation may charge a reasonable toll, which charge shall be subject to revision and regulation from time to time by the Secretary of War.

SEC. 2. That said bridge shall be built of good, substantial *material*, and of such strength and dimensions as may be sufficient

to render the passage of all such vehicles, animals and persons as are herein mentioned perfectly safe at any and all times.

SEC. 3. That said bridge shall not interfere with the free navigation of said river, and in case of any litigation arising from an obstruction or an alleged obstruction to the free navigation thereof, caused or alleged to be caused by said bridge, the case may be tried before the circuit or district court of the United States for the State in which any portion of said bridge may be situated.

SEC. 4. That equal privileges in the use of said bridge shall be granted to all telegraph companies, and the United States reserves the right for the establishment of a postal telegraph across said bridge.

SEC. 5. That the consent of the State of Chihuahua, United States of Mexico, and of the proper authorities of the Republic of Mexico shall have been obtained before said bridge shall be built or commenced.

SEC. 6. That unless the construction of said bridge be commenced within one year and finished within three years from the date of the passage of this act, the provisions of this act shall be null and void.

SEC. 7. That Congress reserves the right to withdraw the authority and power conferred by this act, in case the free navigation of said river shall at any time be substantially or materially obstructed by said bridge, or for any other reason, and to direct the removal or necessary modifications thereof at the cost and expense of the owners of said bridge; and Congress may at any time alter, repeal, or amend this act.

Approved, September 6, 1888.

Under date of September 25, 1888, the House of Representatives passed the following joint resolution:

Resolved, etc., That the President be, and he is hereby, authorized to negotiate with the Government of Mexico for the creation of an international commission to determine, according to the rules laid down in the convention between the two countries, signed at Washington on the 12th day of November, 1884, all questions touching the boundary line between the United States and Mexico where it follows the bed of the Rio Grande and the Colorado Rivers.

thirty feet in length and sixteen of which to be fifteen feet in length, completed in the manner herein specified, shall be deemed and taken to be a legal structure.

SEC. 3. That said bridge shall not interfere with the free navigation of said river, and in case of any litigation arising from an obstruction or an alleged obstruction to the free navigation thereof, caused or alleged to be caused by said bridge, the case may be tried before the circuit or district court of the United States for the State in which any portion of said bridge may be situated.

SEC. 4. That all railroad companies desiring the use of said bridge shall have and be entitled to equal rights and privileges relative to the passage of railway trains over the same, and over the approaches thereto, upon payment of a reasonable compensation to the owners of said bridge, and should the several railroad companies, or any one of them, desiring such use, fail to agree upon the sum or sums to be paid, and upon rules and conditions to which each shall conform in using said bridge, all matters at issue between them shall be decided by the Secretary of War upon a hearing of the allegations and proofs of the parties; and all tele-

phone and telegraph companies shall have equal rights and privileges in constructing and operating their lines across said bridge.

SEC. 5. That the consent of the State of Chihuahua, United States of Mexico, and of the proper authorities of the Republic of Mexico shall have been obtained before said bridge shall be built or commenced.

SEC. 6. That unless the construction of said bridge be commenced within one year and finished within three years from the date of the passage of this Act the provisions of this Act shall be null and void.

SEC. 7. That Congress reserves the right to withdraw the authority and power conferred by this Act in case the free navigation of said river shall at any time be substantially or materially obstructed by said bridge, or for any other reason, and to direct the removal or necessary modifications thereof at the cost and expense of the owners of said bridge; and Congress may at any time alter, repeal, or amend this Act.

SEC. 8. That said company, instead of erecting such bridge, may acquire by purchase or otherwise the property and franchises of any street-railway bridge heretofore authorized by Congress to be built and now built and in operation across said river at said point.

SEC. 9. That said company may in such case remodel and strengthen such bridge so acquired so as to conform in all particulars to the requirements for a new bridge, as hereinbefore set out, and may maintain and operate such bridge under the conditions of its original franchises, subject to all the provisions of this Act in respect to a new bridge.

SEC. 10. That the consent of the State of Chihuahua, United States of Mexico, and of the proper authorities of the Republic of Mexico shall have been obtained before such property and franchises are acquired.

Approved, February 1, 1897.

NEBRASKA v. IOWA.

Original.

[SUPREME COURT OF THE UNITED STATES.]

[143 U. S., 359.]

No. 4. Original. Argued January 29, 1892.—Decided February 29, 1892.

When grants of land border on running water, and the banks are changed by the gradual process known as accretion, the riparian owner's boundary line still remains the stream; but when the boundary stream suddenly abandons its old bed and seeks a new course by the process known as avulsion, the boundary remains as it was, in the centre of the old channel; and this rule applies to a State when a river forms one of its boundary lines.

The law of accretion controls on the Missouri River, as elsewhere; but the change in the course of that river in 1877 between Omaha and Council Bluffs does not come within the law of accretion, but within that of avulsion.

The court stated the case as follows:

This is an original suit brought in this court by the State of Nebraska against the State of Iowa, the object of which is to have the boundary line between the two States determined. Iowa was admitted into the Union in 1846, and its western boundary as defined by the act of admission was the middle of the main channel of the Missouri River. Nebraska was admitted in 1867, and its eastern boundary was likewise the middle of the channel of the Missouri River. Between 1851 and 1877, in the vicinity of Omaha, there were marked changes in the course of this channel, so that in the latter year it occupied a very different bed from that through which it flowed in the former year. Out of these changes has come this litigation, the respective States claiming jurisdiction over the same tract of land. To the bill filed by the State of Nebraska the State of Iowa answered, alleging that this disputed ground was part of its territory, and also filed a cross-bill, praying affirmative relief, establishing its jurisdiction thereof, to which cross-bill the State of Nebraska answered. Replications were duly filed and proofs taken.

***Mr. J. M. Woolworth* for the State of Nebraska. *Mr. C. J. Greene* and the *Attorney General* of that State were with him on the brief, in which were cited *Jefferis v. East Omaha Land Co.*, 134**

U. S. 178; 8 Opinions Attorneys General, 177; *Indiana v. Kentucky*, 136 U. S. 479.

Mr. Smith McPherson for the State of Iowa. The *Attorney General* of that State and *Mr. J. J. Stewart* were with him on the brief, in which were cited *St. Louis v. Rutz*, 138 U. S. 226; *Mulry v. Norton*, 100 N. Y. 424.

Mr. Justice Brewer delivered the opinion of the court.

It is settled law, that when grants of land border on running water, and the banks are changed by that gradual process known as accretion, the riparian owner's boundary line still remains the stream, although, during the years, by this accretion, the actual area of his possessions may vary. In *New Orleans v. United States*, 10 Pet. 662, 717, this court said: "The question is well settled at common law, that the person whose land is bounded by a stream of water which changes its course gradually by alluvial formations, shall still hold by the same boundary, including the accumulated soil. No other rule can be applied on just principles. Every proprietor whose land is thus bounded is subject to loss by the same means which may add to his territory; and, as he is without remedy for his loss in this way, he cannot be held accountable for his gain." (See also *Jones v. Soulard*, 24 How. 41; *Banks v. Ogden*, 2 Wall. 57; *Saulet v. Shepherd*, 4 Wall. 502; *St. Clair County v. Lovington*, 23 Wall. 46; *Jefferis v. East Omaha Land Co.*, 134 U. S. 178.)

It is equally well settled, that where a stream, which is a boundary, from any cause suddenly abandons its old and seeks a new bed, such change of channel works no change of boundary; and that the boundary remains as it was, in the centre of the old channel, although no water may be flowing therein. This sudden and rapid change of channel is termed, in the law, avulsion. In *Gould on Waters*, sec. 159, it is said: "But if the change is violent and visible, and arises from a known cause, such as a freshet, or a cut through which a new channel is formed, the original thread of the stream continues to mark the limits of the two estates." 2 Bl. Com. 262; *Angell on Water Courses*, § 60; *Trustees of Hopkins' Academy v. Dickinson*, 9 Cush. 544; *Buttenth v. St. Louis Bridge Co.*, 123 Illinois, 535; *Hagan v. Campbell*, 8 Porter (Ala.) 9; *Murry v. Sermon*, 1 Hawks (N. C.) 56.

These propositions, which are universally recognized as correct where the boundaries of private property touch on streams, are in like manner recognized where the boundaries between States or nations are, by prescription or treaty, found in running

"But, on the other hand, if, deserting its original bed, the river forces for itself a new channel in another direction, then the nation, through whose territory the river thus breaks its way, suffers injury by the loss of territory greater than the benefit of retaining the natural river boundary, and that boundary remains in the middle of the deserted river bed. For, in truth, just as a stone pillar constitutes a boundary, not because it is a stone, but because of the place in which it stands, so a river is made the limit of nations, not because it is running water bearing a certain geographical name, but because it is water flowing in a given channel, and within given banks, which are the real international boundary.

"Such is the received rule of the law of nations on this point, as laid down by all the writers of authority. (See ex. gr. Puffend. Jus. Nat. Lib. iv, cap. 7, s. ii; Gundling, Jus. Nat. p. 248; Wolff, Jus. Gentium, s. 106-109; Vattel, Droit des Gens, liv. i, chap. 22, s. 268, 270; Stypmanni, Jus. Marit. Cap. v. n. 476-552; Rayneval, Droit de la Nature, tom. i, p. 307; Merlin, Répertoire, ss. voc. alluv.)"

Further reference is made in the opinion to the following authorities:

"Don Antonio Riquelme states the doctrine as follows:

"When a river changes its course, directing its currents through the territory of one of the two coterminous States, the bed which

it leaves dry remains the property of the State (or States) to which the river belonged, that being retained as the limit between the two nations, and the river enters so far into the exclusive dominion of the nation through whose territory it takes the new course. Nations must, of necessity, submit their rights to these great alterations which nature predisposes and consummates.

. . . But, when the change is not total, but progressive only, that is to say, when the river does not abandon either State, but only gradually shifts its course by accretions, then it continues still to be the boundary, and the augmentation of territory, which one country gains at the expense of the other, is to be held by it as a new acquisition of property.' (Derecho Internacional, tom. i, p. 83.)

"Don Andres Bello and Don José Maria de Pando both enunciate the doctrine in exactly the same words, namely:

"'When a river or lake divides two territories, whether it belong in common to the conterminous riparian States, or they possess it by halves, or one of them occupies it exclusively, the rights, which either has in the lake or river, do not undergo any change by reason of alluvion. The lands insensibly invaded by the water are lost by one of the riparian States, and those which the water abandons on the opposite bank increase the domain of the other State. But if, by any natural accident, the water, which separated the two States, enters of a sudden into the territory of the other, it will thence forth belong to the State whose soil it occupies, and the land, including the abandoned river-channel or bed, will incur no change of master.' (Bello, Derecho Internacional, p. 38; Pando, Derecho Internacional, p. 99.)

"Almeda refers to the same point, briefly, but in decisive terms. He says:

"'As the river belongs to the two nations, so, also, the river-bed, if by chance it become dry, is divided between them as proprietors. When the river changes its course, throwing itself on one of two conterminous states it then comes to belong to the state through whose territory it runs, all community of right in it so far ceasing.' Derecho Publico, tom. i. p. 199.

"Leaving authorities of this class, then, let us come to those which discuss the question in its relation to private rights, and as a doctrine of municipal jurisprudence.

"The doctrine is transmitted to us from the laws of Rome. (Justinian, Inst. lib. ii, tit. i, s. 20-24; Dig. lib. xii, tit. i, l. 7. See J. Voet ad Pandect. tom. i, p. 606, 607. Heinec. Recit. lib. ii, tit. 2, s. 358-369; Struvii Syntag. ex. 41, c. 33-25; Bowyers's Civil Law, ch. 14.)

"Don Alfonso transferred it from the civil law to the Partidas. (Partida iii, tit. 28, l. 31.) Thus it came to be, as it still remains, an established element of the laws of Spain and of Mexico. (Alvarez, Instituciones, lib. ii, tit. i, s. 6; Asso. Instituciones, p. 101; Gomez de la Serna, Elementos, lib. ii, tit. 4, sec. 3, no. 2; Escriche,

alluvion; and, consequently, I alone may appropriate to myself whatever additions the current of the river may insensibly make to my land. I say 'insensibly,' because, in the very uncommon case called avulsion, when the violence of the stream separates a considerable part from one piece of land and joins it to another, but in such manner that it can still be identified, the property of the soil so removed naturally continues vested in its former owner. The civil laws have thus provided against and decided this case, when it happens between individual and individual; they ought to unite equity with the welfare of the state, and the care of preventing litigations.

"In case of doubt, every territory terminating on a river is presumed to have no other boundary than the river itself; because nothing is more natural than to take a river for a boundary, when a settlement is made; and wherever there is a doubt, that is always to be presumed which is most natural and most probable.

"As soon as it is determined that a river constitutes the boundary line between two territories, whether it remains common to the inhabitants on each of its banks, or whether each shares half of it, or, finally, whether it belongs entirely to one of them, their rights, with respect to the river, are in nowise changed by the alluvion. If, therefore, it happens that, by a natural effect of the current, one of the two territories receives an increase, while the river gradually encroaches on the opposite bank, the

river still remains the natural boundary of the two territories, and, notwithstanding the progressive changes in its course, each retains over it the same rights which it possessed before; so that, if, for instance, it be divided in the middle between the owners of the opposite banks, that middle, though it changes its place, will continue to be the line of separation between the two neighbors. The one loses, it is true, while the other gains; but nature alone produces this change; she destroys the land of the one, while she forms new land for the other. The case cannot be otherwise determined, since they have taken the river alone for their limits.

“But if, instead of a gradual and progressive change of its bed, the river, by an accident merely natural, turns entirely out of its course and runs into one of the two neighboring States, the bed which it has abandoned becomes thenceforward their boundary, and remains the property of the former owner of the river, (sec. 267,) the river itself is, as it were, annihilated in all that part while it is reproduced in its new bed, and there belongs only to the State in which it flows.”

The result of these authorities puts it beyond doubt that accretion on an ordinary river would leave the boundary between two States the varying centre of the channel, and that avulsion would establish a fixed boundary, to wit: the centre of the abandoned channel. It is contended, however, that the doctrine of accretion has no application to the Missouri River, on account of the rapid and great changes constantly going on in respect to its banks; but the contrary has already been decided by this court in *Jefferis v. Land Company*, 134 U. S. 178, 189. A question between individuals, growing out of changes in the very place now in controversy, was then before this court; and in the opinion, after referring to the general rule, it was observed: “It is contended by the defendant that this well settled rule is not applicable to land which borders on the Missouri River, because of the peculiar character of that stream and of the soil through which it flows, the course of the river being tortuous, the current rapid, and the soil a soft, sandy loam, not protected from the action of water either by rocks or the roots of trees; the effect being that the river cuts away its banks, sometimes in a large body, and makes for itself a new course, while the earth thus removed is almost simultaneously deposited elsewhere, and new land is formed almost as rapidly as the former bank was carried away. But it has been held by this court that the general law of accretion is applicable to land on the Mississippi River; and, that being so, although the changes on the Missouri River

not perceive it while the process was going on."

The case before us is presented on testimony, and not on allegation. But what are the facts apparent from that testimony? The Missouri River is a winding stream, coursing through a valley of varying width, the substratum of whose soil, a deposit of distant centuries, is largely of quicksand. In building the bridge of the Union Pacific Railway Company across the Missouri River, in the vicinity of the tracts in controversy, the builders went down to the solid rock, sixty-five feet below the surface, and there found a pine log a foot and a half in diameter—of course, a deposit made in the long ago. The current is rapid, far above the average of ordinary rivers; and by reason of the snows in the mountains there are two well known rises in the volume of its waters, known as the April and June rises. The large volume of water pouring down at the time of these rises, with the rapidity of its current, has great and rapid action upon the loose soil of its banks. Whenever it impinges with direct attack upon the bank at a bend of the stream, and that bank is of the loose sand obtaining in the valley of the Missouri, it is not strange that the abrasion and washing away is rapid and great. Frequently, where above the loose substratum of sand there is a deposit of

comparatively solid soil, the washing out of the underlying sand causes an instantaneous fall of quite a length and breadth of the superstratum of soil into the river; so that it may, in one sense of the term, be said that the diminution of the banks is not gradual and imperceptible, but sudden and visible. Notwithstanding this, two things must be borne in mind, familiar to all dwellers on the banks of the Missouri River, and disclosed by the testimony: that, while there may be an instantaneous and obvious dropping into the river of quite a portion of its banks, such portion is not carried down the stream as a solid and compact mass, but disintegrates and separates into particles of earth borne onward by the flowing water, and giving to the stream that color which, in the history of the country, has made it known as the "muddy" Missouri; and, also, that while the disappearance, by reason of this process, of a mass of bank may be sudden and obvious, there is no transfer of such a solid body of earth to the opposite shore, or anything like an instantaneous and visible creation of a bank on that shore. The accretion, whatever may be the fact in respect to the diminution, is always gradual and by the imperceptible deposit of floating particles of earth. There is, except in such cases of avulsion as may be noticed hereafter, in all matter of increase of bank, always a mere gradual and imperceptible process. There is no heaping up at an instant, and while the eye rests upon the stream, of acres or rods on the forming side of the river. No engineering skill is sufficient to say where the earth in the bank washed away and disintegrating into the river finds its rest and abiding place. The falling bank has passed into the floating mass of earth and water, and the particles of earth may rest one or fifty miles below, and upon either shore. There is, no matter how rapid the process of subtraction or addition, no detachment of earth from the one side and deposit of the same upon the other. The only thing which distinguishes this river from other streams, in the matter of accretion, is in the rapidity of the change caused by the velocity of the current; and this in itself, in the very nature of things, works no change in the principle underlying the rule of law in respect thereto.

Our conclusions are that, notwithstanding the rapidity of the changes in the course of the channel, and the washing from the one side and on to the other, the law of accretion controls on the Missouri River, as elsewhere; and that not only in respect to the rights of individual land owners, but also in respect to the boun-

dary lines between States. The boundary, therefore, between Iowa and Nebraska is a varying line, so far as affected by these changes of diminution and accretion in the mere washing of the waters of the stream.

It appears, however, from the testimony, that in 1877 the river above Omaha, which had pursued a course in the nature of an ox-bow, suddenly cut through the neck of the bow and made for itself a new channel. This does not come within the law of accretion, but of that of avulsion. By this selection of a new channel the boundary was not changed, and it remained as it was prior to the avulsion, the centre line of the old channel; and that, unless the waters of the river returned to their former bed, became a fixed and unvarying boundary, no matter what might be the changes of the river in its new channel.

We think we have by these observations indicated as clearly as is possible the boundary between the two States, and upon these principles the parties may agree to a designation of such boundary, and such designation will pass into a final decree. If no agreement is possible, then the court will appoint a commission to survey and report in accordance with the views herein expressed.

The costs of this suit will be divided between the two States, because the matter involved is one of those governmental questions in which each party has a real and vital, and yet not a litigious, interest.











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WILLIAM L. PENFIELD
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